

2398

No. 10765

IN THE
United States Circuit Court of Appeals
FOR THE NINTH CIRCUIT

NELSON B. CRAMER,

Appellant,

vs.

COL. JESSE G. FRANCE, Commanding Officer, Reception Center, Fort McArthur, California,

Appellee,

TRANSCRIPT OF RECORD

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division

FILED

JUN 21 1940

PAUL P. O'BRIEN.
CLERK

No. 10765

IN THE

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT

NELSON B. CRAMER,

Appellant,

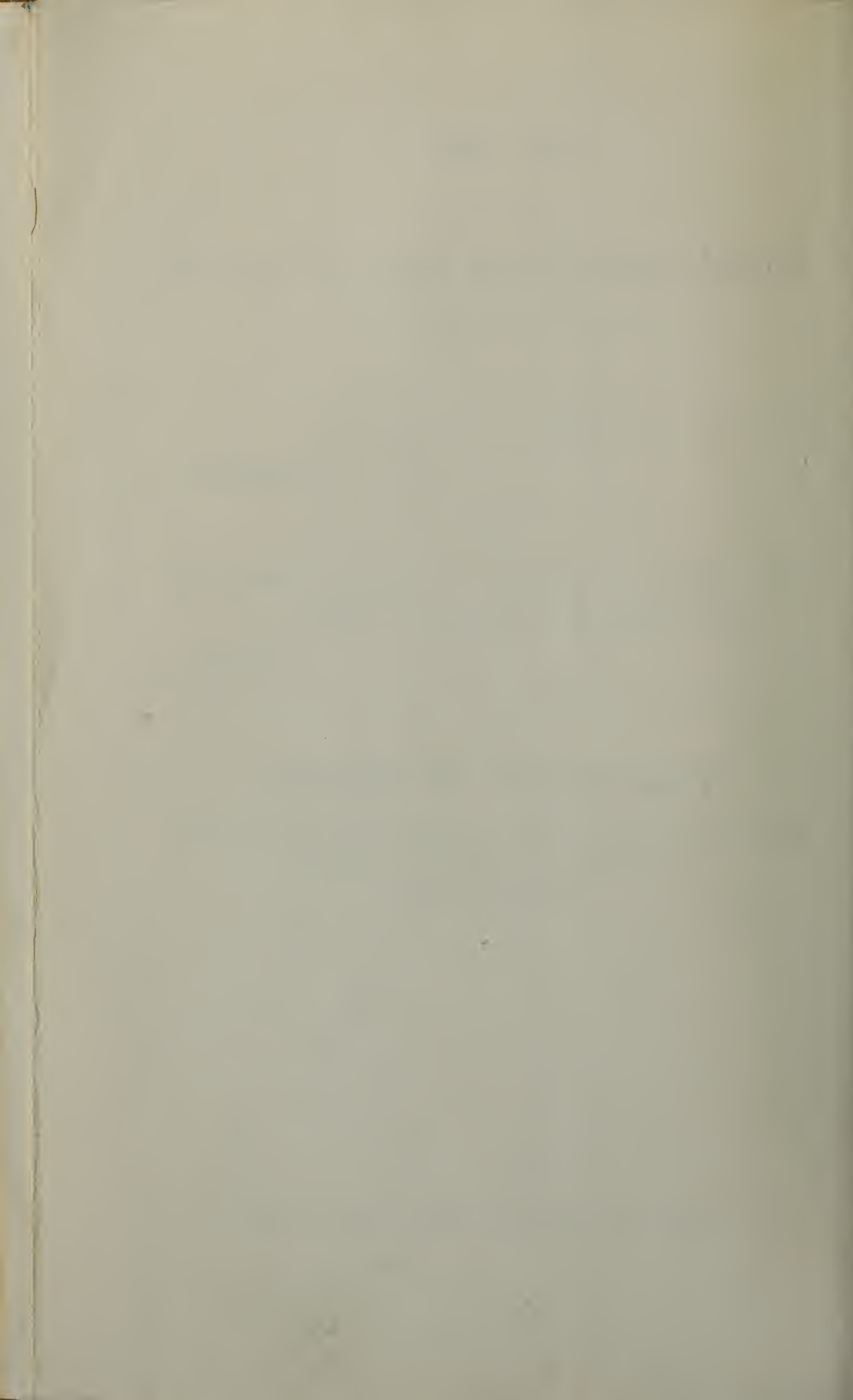
vs.

COL. JESSE G. FRANCE, Commanding Officer, Reception Center, Fort McArthur, California,

Appellee,

TRANSCRIPT OF RECORD

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division



INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italics; and likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

	Page
Amended Petition for Writ of Habeas Corpus.....	2
Appeal:	
Bond for Costs on.....	116
Notice of	115
Statement of Points on.....	119
Stipulation and Order re Transmission of Original Exhibit	122
Stipulation as to Record on.....	123
Bond for Costs on.....	116
Certificate of Clerk.....	125
Judge's Decision	100
Minute Order Entered December 16, 1943.....	50
Minute Order Entered December 31, 1943.....	99
Names and Addresses of Attorneys.....	1
Notice of Appeal.....	115
Order and Judgment Discharging Writ and Dismissing Petition and Remanding Petitioner to Custody.....	113
Order re Transmission of Original Exhibit, Stipulation and	122
Petition for Writ of Habeas Corpus, Amended.....	2
Return to Writ of Habeas Corpus.....	53
Statement of Points on Appeal.....	119
Stipulation as to Record on Appeal.....	123
Stipulation as to Traverse to Return.....	55
Stipulation and Order to Send Original Papers to Cir- cuit Court of Appeals in Lieu of Copies.....	122
Writ of Habeas Corpus.....	51

	Page
Petitioner's Exhibit No. 1.....	56
Letter of August 18, 1943, to Local Board No. 271 from Isaac C. De Velder, Chairman Douglas County U. S. D. A. War Board.....	56
Letter of September 3, 1943, From W. F. Prisk, Chairman, Board No. 271, to Isaac C. De Velder	58
Letter of September 7, 1943, From Isaac C. De Velder to Local Board No. 271.....	60
Letter of October 4, 1943, From Douglas County U. S. D. A. War Board to Local Board No. 271....	62
Letter of October 12, 1943, From Nelson B. Cramer to Local Board No. 271.....	63
Letter of October 18, 1943, From Nelson B. Cramer to Local Board No. 271.....	70
Letter of October 21, 1943, From Jack Horner, Member Selective Service Board No. 271.....	88
Statement of Personal Privilege by W. F. Prisk, Member Selective Service Board No. 271.....	84
Statement of Personal Privilege by Clarence E. Wagner, Member Selective Service Board No. 271	96
Summary of Oral Matters Presented at Personal Appearance of Nelson B. Cramer, Before Selec- tive Service Board.....	72

NAMES AND ADDRESSES OF ATTORNEYS:

For Appellant:

PHILBRICK McCOY

1015 Spring Arcade Building
Los Angeles 13, Calif.

For Appellee:

CHARLES H. CARR,
United States Attorney,

JAMES M. CARTER,
Assistant United States Attorney,

600 U. S. Post Office and Court House Bldg.
Los Angeles 12, Calif.

In the District Court of the United States
Southern District of California
Central Division

No. 3319 RJ

In the Matter of the Petition of

NELSON B. CRAMER,
for a Writ of Habeas Corpus.

AMENDED PETITION FOR WRIT OF HABEAS
CORPUS.

*To the Honorable Judges of the District Court of the
United States, Southern District of California,
Central Division:*

Comes now Nelson B. Cramer and files this amended petition for a writ of habeas corpus on his own behalf, and respectfully shows to the Court as follows:

I.

Petitioner is unlawfully detained and restrained of his liberty by Col. Jesse J. France, Commanding Officer, Reception Center, Fort MacArthur, California, by virtue of his induction into the armed forces of the United States pursuant to his reclassification in Class I-A and order to report for induction by the Selective Service Local Board No. 271 for the County of Los Angeles, State of California, purporting to act pursuant to the Selective Service and Training Act of 1940, as amended, and the Rules and Regulations prescribed by the President to carry out the provisions of said Act, by an order issued by order of Lt. Col. A. H. Bailey, District Recruiting and Induction

Officer, Los Angeles Armed Forces Induction Station No. 1, California, to petitioner under date of December 2, 1943, a copy of which order is attached hereto and prayed to be read as a part hereof.

Said induction is void and said restraining unlawful and without authority in that said reclassification and order to report for induction are void for the following grounds and by reason of the facts as herein set forth:

II.

This petition is based upon the following grounds:

1. Said order of induction is void and illegal in that it was made in violation of section 5, subdivision (k), Selective Service and Training Act (added Nov. 13, 1942, 50 U. S. C. A., Tit. War, Appdx. sec. 305).

2. The reclassification of petitioner in Class I-A instead of in Class II-C and said order of induction are not founded on and not supported by *an* substantial and competent evidence.

3. The reclassification of petitioner in Class I-A instead of in Class II-C and the order of induction were made and issued by said Local Board as the result of an arbitrary, unfair, and capricious enforcement and administration of said Act, in that: (a) there is no substantial and competent evidence before the Board to support said reclassification and order; (b) said reclassification and order were made in disregard of all the evidence submitted by petitioner to said Board in support of his application to be again classified in Class II-C; (c) petitioner was not accorded a full and fair hearing before said Board; (d) said reclassification in Class I-A was based in part upon matters appearing in the record which petitioner was not

given an opportunity to rebut; and (e) said reclassification and order for induction were approved by Col. Kenneth H. Leitch, State Director of Selective Service, acting in an arbitrary, unfair, and capricious manner in the enforcement and administration of said Act.

4. In reclassifying petitioner in Class I-A instead of in Class II-C, and in issuing said order of induction, said Local Board abused its discretion and exceeded its authority in the particulars immediately hereinabove set forth in subparagraph 3 of this paragraph II.

5. By said classification in Class I-A instead of in Class II-C, and by said order of induction, petitioner has been and is denied due process of law as guaranteed him by the 5th Amendment of the Constitution.

III.

This petition is based upon the following facts:

1. As required by the provisions of said Act, petitioner presented himself and submitted to registration on a day fixed by law for said purpose, being at that time temporarily residing within the jurisdiction of said Local Board No. 271 which is composed of W. F. Prisk, Chairman, Clarence Wagner, Fred O'Brien, Jack Horner and A. L. McArthur. He is now a registrant within the jurisdiction of said Local Board No. 271, having Order Number 1915 in the files and records thereof. In 1942 said Local Board No. 271, upon consideration of the evidence before it, classified petitioner in Class II-C, as being a necessary man in an agricultural pursuit, namely, as a person engaged in farming on his own property in the State of South Dakota, and was accordingly deferred from training and service.

2. At all times herein set forth petitioner has been and now is necessary to and prior to his induction was regularly engaged in an agricultural occupation and endeavor essential to the war effort within the meaning of section 5, subdivision (k), of the Selective Service and Training Act of 1940, as amended, in that at all such times he has been and now is personally necessary to and prior to his induction was regularly engaged in farming approximately 650 acres owned by him near Corsica, in the State of South Dakota, and he can obtain no satisfactory replacement for his own services on said farm. Except as required to be in Long Beach, California, by the orders of the defendant Board with reference to his reclassification and with reference to the protection of his rights with respect thereto, and in obedience to said order of induction, petitioner has not left such occupation and endeavor during the year last past.

3. On or about July 15, 1943, said Board notified petitioner that it was about to reconsider his classification as required by law. Thereafter, on July 29, 1943, in accordance with said Act and the rules and regulations prescribed thereunder, petitioner submitted evidence and requested said Local Board No. 271 to again classify him in Class II-C and to again defer him from training and service under said Act. Notwithstanding said request and the evidence submitted by him in support thereof, said Local Board No. 271, on or about September 11, 1943, reclassified petitioner in Class I-A, as immediately available for military service, and petitioner was so advised.

4. On or about September 15, 1943, petitioner learned for the first time that between July 29, 1943 and September 11, 1943, said Local Board No. 271, through its chairman and its secretary, communicated with the United

States Department of Agriculture War Board at Armour, South Dakota, of which one Isaac C. de Velder was and is now chairman, and received a letter from said de Velder as such chairman, dated August 18, 1943, stating in part: "That at no time during the past two years has Mr. Cramer personally done any farm work whatever himself. That at no time has Mr. Cramer displayed any knowledge of farming which would qualify him to supervise the hired men doing the work on such farm." A copy of said letter is attached hereto and is prayed to be read as a part hereof.

5. On or about September 3, 1943, W. F. Prisk, Chairman of Local Board No. 271, addressed a letter to one Helen Clavier, then and now secretary of said Board, which reads in part as follows:

"I am returning to you the bulletin issued by the United States Department of Agriculture. Unless there is information in the affidavits to which you called attention over the phone a few minutes ago, it appears to me that the information given in Section 2 on the first page of the bulletin coupled with the letter from South Dakota Draft Board, makes it almost mandatory for our board to classify Mr. Cramer I-A. Particularly is this true when we read the checkmarked paragraph 2 on page 3 which specifies that war boards should be in a position to initiate requests for 2-C or 3-C classifications of registrants in agricultural occupations. Cramer's War Board apparently has no thought whatsoever of making any such suggestion in his behalf."

Petitioner is informed and believes and upon such information and belief alleges that in said letter of September 3,

1943, in referring to a letter from the South Dakota Draft Board, said Prisk intended to refer to the said letter from de Velder as Chairman of said Agriculture War Board dated August 18, 1943, and that the bulletin referred to by said Prisk is U. S. Department of Agriculture War Letter No. 310, Labor, No. 48, dated at Berkeley, California, March 20, 1943, of which the sections or paragraphs referred to by said defendant Prisk read as follows:

On Page 1:

"2. It is the responsibility of local draft boards to refer to county war boards the names and addresses of persons engaged in agricultural occupations or endeavor, where there is a question as to whether or not such person would qualify for classification in II-C or III-C. Therefore, steps should be taken to work out a mutually agreeable arrangement for the handling of this procedure. It is suggested that each county war board contact local Selective Service Boards and, if possible, arrange a joint meeting to discuss matters of procedure and policy at the county level or local board level in connection with Selective Service Local Board Release No. 164-A".

On Page 3:

"(2) War Boards should also be in a position to initiate requests for the classification of agricultural registrants in II-C and III-C even though neither the registrant or his employer has requested deferment."

6. All the acts alleged in subparagraphs 4 and 5 of this paragraph III were done as therein alleged prior to

September 11, 1943, without the knowledge of petitioner, and petitioner was classified as I-A by said Local Board No. 271 on September 11, 1943, without being informed of said matters. Thereupon petitioner on September 17, 1943, requested an opportunity to appear in person before said Local Board No. 271 to (1) present new facts and evidence not considered by said Board on September 11, 1943, and (2) present evidence supporting his claim that false and misleading information had been placed in his file concerning him and to his detriment, to wit, the information contained in the said letter from said de Velder. On or about October 12, 1943, petitioner was permitted to and did appear personally before said Local Board No. 271, but was not afforded a full and complete opportunity to submit evidence on his own behalf because of the antagonistic and prejudicial attitude of a majority of the members of said Board. Thereupon said Local Board No. 271 made the following entries, among others, in its minutes of said meeting:

“Mr. Cramer was advised that the board was required to follow instructions laid down in a directive from the U. S. Department of Agriculture County War Board, dated March 20, 1943, which in part reads: ‘It is the responsibility of local boards to refer to county war boards the names and addresses of persons engaged in agricultural occupations or endeavor, where there is a question as to whether or not such person would qualify for classification of II-C or III-C,’”

and that the County War Board in South Dakota had:

“advised in writing they did not believe Mr. Cramer was entitled to deferment,”

and thereupon, by a vote of three members of said Board, again reclassified petitioner in Class I-A and denied his request for deferment, two members voting against such reclassification.

7. On October 18, 1943, having been informed of the action of Local Board No. 271, on October 12, 1943, petitioner filed with said Board a Notice of Appeal and a Statement on Appeal, copies whereof respectively are attached hereto and prayed to be read as a part hereof. The record of petitioner before said Board was not immediately transmitted to the proper Appeal Board as required by law, but was transmitted on October 18, 1943, to one Maj. Frank G. Lyman, coordinator for Selective Service in Los Angeles County, "for a review of these records in accordance with telephone conversation of even day." On or about October 25, 1943, said record was referred to the Appeal Board and on or about October 29, 1943, said record was returned by the Appeal Board to said Local Board No. 271, "by direction of coordinator for inclusion of additional information" and return to the Appeal Board. Petitioner was without knowledge until on or about October 29, 1943, of the matters alleged in this subparagraph occurring subsequent to the filing of his said notice of appeal and did not know until December 1, 1943, what, if any, additional information was included in said record by direction of said coordinator.

8. On or about November 5, 1943, the Appeal Board reviewed said record and approved said reclassification of petitioner in Class I-A and forwarded said record to the State Director of Selective Service at Sacramento as required by law. On or about November 8, 1943, at the request of petitioner's attorney, said State Director stated

that the record would be returned without action by him to Local Board No. 271, to enable petitioner to submit to said Board certain additional evidence in support of his claim for deferment. Thereafter, notwithstanding the granting of said request on November 8, 1943, the State Director of Selective Service failed to so return said record to said Local Board and approved the action of Local Board No. 271, and acting on his instructions said Board notified petitioner on November 12, 1943, to report for induction on November 22, 1943.

9. As soon as it was possible to do so after October 12, 1943, Hon. M. Q. Sharpe, Governor of South Dakota, at the request of petitioner, directed the Administrator of the State Council of Defense of South Dakota to make an investigation and report on the agricultural operations and status of petitioner, and petitioner through his attorney informed the State Director of Selective Service of California of that fact on November 8, 1943, and informed said State Director that the report of this investigation constituted the additional evidence petitioner desired to file. At the direction of the National Director of Selective Service, the State Director of Selective Service thereupon made an order staying petitioner's induction to November 29, 1943. Said report, containing information therein material to the issue of plaintiff's right to an additional deferment as a necessary person engaged in a necessary agricultural pursuit, was filed with the State Director of Selective Service in Sacramento on or about November 26, 1943.

10. Petitioner alleges that the bulletin of the Department of Agriculture referred to in subparagraph 5 of this

paragraph contains, among others, the following provisions:

"6. Since War Boards have only the one job of obtaining needed agricultural production, it should not be their responsibility to report their opinions as to whether or not an individual may be a draft dodger. County war boards are to report the actual status of the individual engaged in agricultural work, outlining the agricultural production that this individual is responsible for. The final decision with regard to whether or not an individual shall be inducted into the armed services rests with the local draft board or the appeal board, as the case may be".

Petitioner further alleges that de Velder as the Chairman of the County War Board in South Dakota did not advise Local Board No. 271 in writing or otherwise that "they did not believe Mr. Cramer was entitled to deferment", as recited in the minutes of Local Board No. 271 for October 12, 1943. Petitioner further alleges that in finally placing him in Class I-A by its action on October 12, 1943, said Local Board No. 271 acted arbitrarily and capriciously in that it ignored all the evidence submitted by him in support of his request for deferment, and in that said Board did not make the final decision with regard to petitioner's classification but substituted for its own decision the decision of the said Agricultural War Board in South Dakota or the decision of de Velder as the Chairman thereof with reference to petitioner's agricultural status.

11. Petitioner alleges that he is entitled to be classified under the provisions of the Selective Service and Training Act of 1940, as amended, upon a consideration

of all material evidence; and is entitled as a matter of law to have the discretion of Local Board No. 271 exercised by the consideration of his claim for deferment based upon all the material evidence; that he was and is, under due process of law, entitled to and it was the duty of said Local Board No. 271 to accord him a full and fair hearing on the merits of his claim for deferment; and that by reason of the matters and things herein alleged, and by reason, particularly, of the arbitrary and capricious action of said Local Board No. 271 and the failure of said Local Board No. 271 to exercise any discretion in said matter whatsoever, petitioner has been inducted into the armed forces of the United States and deprived of the due process of the law.

12. Petitioner is informed and believes and upon such information and belief alleges that on or about October 20, 1943, subsequent to the reclassification of petitioner by said Local Board No. 271, W. F. Prisk, the Chairman of said Board, placed in the record of petitioner a letter addressed to said Board concerning petitioner, and that at some time subsequent to October 29, 1943, when said record was returned to said Local Board No. 271 by the Appeal Board without action by the Appeal Board by direction of one Major Frank G. Lyman, Selective Service Coordinator, "for inclusion of additional information" and return of the record to the Appeal Board, Clarence Wagner and Jack Horner, two of the members of said Local Board, each placed and included in the record of petitioner a letter containing statements concerning and highly prejudicial to petitioner, but without giving petitioner an opportunity to examine said letters or to rebut any of the statements contained therein; that said letters of said Prisk, Wagner and Horner contained self-serving and

false statements made by them for the purpose of prejudicing petitioner, and that said statements were in said record when the same was reviewed by the Appeal Board which affirmed the action of said Local Board No. 271, and when said record was reviewed by Col. Kenneth H. Leitch, State Director of Selective Service, who affirmed the action of said Local Board No. 271 on or about November 9, 1943; and that the actions of said Appeal Board and said State Director of Selective Service in considering said statements by said Prisk, Wagner and Horner, and in affirming the action of said Local Board No. 271 in reclassifying petitioner in Class I-A and of said State Director of Selective Service in refusing to permit petitioner to rebut the statements of said Prisk, Wagner and Horner were arbitrary and capricious and contrary to law, and deprived petitioner of the due process of law.

12. There are attached hereto and prayed to be read as a part hereof, copies of (1) petitioner's affidavit to support claim for occupational deferment; (2) thirty-one affidavits signed by residents of South Dakota; (3) copies of letters dated August 18, 1943, September 3, 1943, September 7, 1943 and October 4, 1943, comprising the correspondence between Isaac C. de Velder, Chairman, U. S. D. A. War Board, Douglas County, South Dakota, and said Local Board No. 271; (4) two letters dated September 8, 1943 and September 29, 1943 from the Governor of South Dakota to said Local Board No. 271, and a letter dated September 9, 1943, to petitioner from Hon. Chan Gurney, a United States Senator, and a letter dated October 1, 1943, from Hon. Stewart Sharpe, of Delmont, South Dakota; and (5) certain letters and statements from petitioner to said Local Board No. 271, dated September 11, 1943, September 17, 1943, September 18, 1943, Octo-

ber 11, 1943, and October 12, 1943. All of said documents were a part of the record before said Board on October 12, 1943, when petitioner was reclassified by said Board.

There are also attached hereto and prayed to be read as a part hereof copies of (1) petitioner's letter to said Local Board No. 271 dated October 18, 1943, and of the statement referred to therein; (2) petitioner's notice of appeal and statement on appeal dated October 18, 1943; (3) the report of an investigation made in South Dakota by direction of the Governor of said State in November, 1943, filed with the State Director of Selective Service for California, November 26, 1943; and (4) copies of the statements in said record by W. F. Prisk, Jack Horner and Clarence Wagner, hereinabove referred to, dated October 20, 1943, October 21, 1943, and November 1, 1943, respectively, each of which is denominated "Statement of Personal Privilege".

13. On December 2, 1943, by Special Orders Nos. 276, issued by order of said Lt. Col. A. H. Bailey, District Recruiting and Induction Officer, Los Angeles Armed Forces Induction Station No. 1, California, petitioner was inducted into the Army of the United States, and effective December 23, 1943, called to active duty and proceeded to report at the Reception Center, Fort MacArthur, California, reporting to the Commanding Officer thereat for duty, and by virtue of said special orders, petitioner is now detained and restrained of his liberty by said Col. Jesse J. France, Commanding Officer, Reception Center, Fort MacArthur, California.

14. Petitioner is in all respects subject to induction into the armed forces of the United States under the

Selective Service and Training Act of 1940, as amended, save and except for his claim for deferment and classification in Class II-C in accordance with the provisions of section 5, subd. (k) thereof, and prior to his induction and the filing of this petition exhausted all administrative remedies available to him to establish his right to such deferment and classification.

IV.

Accordingly, petitioner respectfully submits that his detention and the restraint of his liberty are illegal and void upon the several grounds more fully set forth in paragraph II of this petition, which are hereby referred to for the particulars thereof.

Wherefore, petitioner respectfully prays that a writ of habeas corpus be issued by this Court directed to Col. Jesse J. France, Commanding Officer, Reception Center, Fort MacArthur, California, requiring him to have the body of petitioner in said Court at a time and place to be fixed by the Court, then and there to do and receive whatever shall then and there be considered and ordered concerning the petitioner, and that upon the hearing of said writ petitioner may be restored to his liberty and discharged from the Army of the United States.

Dated: December 15, 1943.

Nelson B. Cramer,
Nelson B. Cramer,
Petitioner.

Philbrick McCoy,
Attorney for Petitioner.

[Verified.]

RESTRICTED

LOS ANGELES ARMED FORCES INDUCTION
STA NO 1

Pac Elec Bldg 6th & Main St

276

Los Angeles 14 Calif

SO

2 December 1943

EXTRACT

Extract of

Per Each of the following EM inducted into the AUS this date is released from active duty this date is transferred, to the FRC and will proceed to his home

Name	Asn	Local Board	Home
Nelson B. Cramer	39719417	271	Long Beach, Calif.

Effective 23 December 1943 each of the above named EM of the FRC is called to active duty and will proceed from his home to the Rcpt Ctr Ft Mac Arthur Calif reporting to the CO thereat for duty

Should any of the above named Enlisted Reservists be found to be physically disqualified upon reporting for active duty the necessary steps will be taken to discharge under the provisions of Paragraph 22 b 1, AR 150-5 30 September 1931 Under no circumstances will permanently physically disqualified personnel be transferred back to the inactive Enlisted Reserve Corps

The QM will furnish the necessary T and meal tickets The T directed is necessary in the Mil Serv 1-5090 P 431-02 A 0425-24

By order of Lieutenant Colonel Bailey

A G HARRISON

1st Lt AUS

Executive Officer

Official A G Harrison

A G HARRISON

1st Lt AUS

Executive Officer

FT MAC ARTHUR CALIF

F-39

INFORMATION FOR SELECTEES

1. Reporting for duty

Competent authority has decided that when a selectee has passed his physical examination at Induction Station, notification that he has been found acceptable makes him a member of the Army of the United States. Failure or refusal to take the oath of induction does not alter his status.

As a member of the Army of the United States, whether on active duty or in the reserve, you are subject to the Articles of War, which are the laws governing the Army. In your present status the most important Articles of War to you are the following:

58th Article of War: This article deals with Desertion. If convicted of Desertion in time of War, a soldier may receive the death penalty or such other punishment as a court martial may direct.

61st Article of War: This article deals with Absence Without Leave. Any person subject to Military Law who fails to report at the proper time to his proper post of duty unless given proper leave is guilty of violation of this article, and may be punished as Court Martial may direct.

The essential difference between Desertion and Absence Without Leave is that in the former there is the intention

to remain permanently away from the organization to which assigned. This intent may be formed either prior to or after departure. In Absence Without Leave said intent is lacking.

The Place and time for you to report are shown below :

Date to Report Dec 23 1943

Time to Report 8:45 A. M.

Place to Report P. E. Station—156 West Ocean Blvd., Long Beach, Calif.

If due to an accident or serious illness, you are unable to report at the time specified, you must contact your Local Board and make arrangements for entrainment at a later date.

2. Conduct on public carriers.

Any misbehavior, such as disturbing civilian passengers, damaging transportation property and improper dress, is punishable by Court Martial. Such conduct tends to bring discredit upon the Military Service. It is usually traceable to improper use of Alcoholic drinks, excessive use of which may bring total prohibition to the Army.

The Acting Corporal of the group is responsible for maintaining order, and may call upon others in the group to assist him. He will make himself known to the conductor and will cooperate with transportation personnel. In case of disorder, he will make complete reports of the facts on arrival at destination.

[Crest]: State Seal of South Dakota.

M. Q. Sharpe
Governor

Pierre

22 November 1943

Members of Local Selective Service Board No. 271
of the State of California

Woodrow Wilson High School
Long Beach, California

Gentlemen: Re: Nelson B. Cramer, Order No. 1915.

Pursuant to my letter of November 9 1943 advising you that I would have Mr R P Harmon of Belle Fourche, South Dakota, make an independent investigation and report on the status of Nelson B Cramer, above identified, as a farmer, I directed Mr. Harmon to make the investigation and report, and he proceeded to do so.

I have now received from Mr Harmon a written report of his proceedings in the matter, which report consists of four pages, the first of which is entitled 'Belle Fourche, S. D., November 18, 1943,' and is addressed to Hon. M. Q. Sharpe, Governor of South Dakota, Pierre, South Dakota; the other pages of which are designated as page 2, page 3, page 4, November 18, 1943, M. Q. Sharpe, and page 4 being signed 'Sincerely yours, R. P. Harmon.'

To these are attached the following:

List of persons who made affidavit, consisting of 2 pages;

Statement of Roy Folkerts by question and answer, consisting of 2 pages;

Statement of Mrs Dice, consisting of 2 pages, by question and answer;

Statement of Joe Henry, by question and answer, consisting of 3 pages;

Statement of T M Paulson, by question and answer, consisting of one page;

Statement of Mr Muckey, by question and answer, consisting of one page;

Statement of Judge Sharpe, consisting of 2 pages;

Statement of Isaac C DeVelder, consisting of 2 pages;

Statement of Nelson B Cramer, by question and answer, consisting of one page;

Statement of William DeBoer, consisting of one page;

Statement giving information with reference to Mr Cramer's farms.

To some of the statements Mr Harmon has appended his own comments but all of them represent his findings, conclusions, and opinions.

Mr Harmon's calling has been that of a minister of the gospel. He was elected state commander of the American Legion, Department of South Dakota, because of his participation in World War I. He was appointed coordinator of Civilian Defense for South Dakota by my predecessor in office, Governor Bushfield, and when I became Governor I appointed him coordinator of South Dakota Civilian Defense, which, in effect, makes him the supervisor and operator of it.

I think the attached report of Mr Harmon has been made fairly and impartially as a result of his personal inspections and interviews as shown by it. I would personally rely upon his report in the conduct of important affairs of this state.

It is my understanding that our state director of Selective Service, Colonel E A Beckwith, is familiar with the case and would concur in the general conclusions expressed by Mr Harmon. For that reason I am sending a copy of this report of Mr Harmon's to our own director of Selective Service, at Rapid City, South Dakota.

I note that one of the statements attached to the Harmon report is by a Judge Sharpe of Douglas County. As there seems to be some question about the reliability of witnesses because of personal connections with Mr Cramer, I will say that this Judge Sharpe is of no relation to me whatsoever so far as I have ever been able to determine. Although I have been acquainted with him for a number of years and have tried to trace out some relationship, I have been unable to find any.

My only purpose in submitting this material to you is to see that Mr Cramer gets a fair and impartial hearing with a decision based upon the evidence and the merits of the case, which every citizen is entitled to have under our system of government.

Yours sincerely

M. Q. Sharpe

Governor of South Dakota

Attest:

Secretary of State Mrs. L. M. Larsen

Received Office of the Governor Nov 22 1943 Pierre,
S. D.

Belle Fourche, S. D.,
November 18, 1943.

Hon. M. Q. Sharpe,
Governor of South Dakota,
Pierre, South Dakota.

Dear Governor:

Pursuant to your recent letter directing me to proceed to Douglas County, South Dakota, and there interview certain people, and to reach a conclusion concerning the actual draft status of one, Nelson B. Cramer, I did on the 16th and 17th of November carry out that wish of yours, and I am hereby submitting a report to you, personally, of the impressions made and the conclusions reached in this matter.

I first of all read the entire file and correspondence which had been collected by photostatic copies from the Draft Board in Long Beach, and put into a file by one, Mr. Leland McArthur, who is an assistant in some way to Mr. Nelson B. Cramer.

There is an attached list of the persons who made affidavits concerning Mr. Cramer's status, some thirty three or thirty four in number, and one of my first proceedings when arriving at Corsica, Douglas County, was to ascertain the standing of these men and women who had made these affidavits.

I did not have time, nor feel it was necessary to visit all of these people, but I did interview some of them, and there can be no doubt in anyone's mind that men like Judge Sharpe; Mr. William De Boer, State Representative from Douglas County; Mrs. M. A. Dice; Roy Folkerts, Grain Dealer, are people of the highest type and integrity—no better can be found any where on God's earth. They impress you that way, so I consider statements from them

as to be true facts concerning this case to the very best of their knowledge and ability.

To say that Roy Folkerts would perjure himself so that he might buy an extra five hundred or thousand bushels of grain, or that Judge Sharpe would make false or misleading statements that it might bring him an extra abstract to look over, is inconceivable to any person who has ever met these folks. So, I am convinced that the evidence given in their statements and affidavits are true to the best of their knowledge and ability.

After interviewing some of these people, I drove to the Cramer ranch, where I went over his farm pretty thoroughly. There I found a large amount of machinery, such as tractors, plows, drills, disks, feed grinding machinery, etc., that are used and necessary on a modern farm. A list which is attached later in the file.

I found about 350 acres of farm land under actual cultivation, some in corn and some in small grain, and also found he was feeding a bunch of some fifty head of cattle, thirty head of hogs and about one hundred chickens.

I found from records and facts that Mr. Cramer has been operating this farm since the fall of 1941. At that time he came to South Dakota, purchased about ninety head of cattle in early October, went on to New York State where he had some farm property, sold it, and returned to South Dakota, took care of his cattle that fall and on March first moved on to the ranch and has lived there since that time.

How good, or bad a farmer Mr. Cramer is, is not within my power to say. He may be good, bad or worse—perhaps some expert could classify him in that. I would not attempt it. But for anyone to deny that he has not lived

not R. P. H.

on his ranch and has attempted to be a farmer since

the fall of 1941 is wholly inconceivable and not truthful in its' contents. Especially in view of the testimony of these thirty three neighbors and business men who were in a position to see and to know the facts in this case.

I talked with one, Mr. De Velder, who is head of the Douglas County War Board and the AAA of Douglas County. That there has been ill feeling, heated controversies, between he and Mr. Cramer, there can be no doubt. Mr. De Velder made the statement that he wished to stay by his letter to the Long Beach Draft Board that Mr. Cramer was not essential to the war effort. Mr. De Velder insists that he lived near the Cramer farm and goes past there quite often and has never seen Mr. Cramer doing any farm work.

I then talked to the County Agent, a Mr. Robert L. Pinnow, who is Secretary of the County War Board and asked him where he would classify Mr. Cramer and he
is R. P. H.

made the statement "I do not think he essential to the war work." I then insisted how he would classify Mr. Cramer and he stated "Cramer was a farm manager and not an actual farmer."

Because of the feeling existing over the Triple A Program which Mr. Cramer has not participated in and in most instances refused his renters on his other five or six farms to participate in, I consider the evidence given by the County War Board Members to be more or less prejudice and personal.

I also visited the Members of the Draft Board of Douglas County, and as this matter was not within their hands they have never made any classification of Mr. Cramer, and naturally do not want to make any. In fact they

should not make any since the case is not within their jurisdiction, and for that reason I do not quote or make any statements from them, or bring them into this review.

That there is feeling in the community that Mr. Cramer should go into the armed forces due to the fact that he is a single man, and, secondly, that he went into the farm business to get away from the actual military service, no one will try to deny. Why Mr. Cramer went into the farming business, I do not have the power of discernment to tell, any more than I know why some others there, went back on farms, or others throughout our state and nation went into essential industries. This much can be said in his favor, however, that he actually was on the farm with his equipment prior to Pearl Harbor. That is a fact that all records and evidence substantiate.

Personally, I feel it is too bad that there are any classifications and deferments. I would much have preferred to have seen the Selective Service Act take any, or every man when his number was drawn out of the hat, regardless of who he was or where he was. But since the Act states that a farmer, or one engaged in agricultural pursuits is to be classified as such, there can be no question or doubt but what Mr. Cramer has equipment, has livestock, is raising grain and performing the agricultural pursuits to the best of his ability on his farm in Douglas County.

As stated before, I do not know how good a farmer he is, but I also have reached the other conclusion that he would not be worth a tinker's darn in the army, and I really think he would be of more service to the United States of America to be kept there operating his farm than he would be in the armed forces.

There is one fact that must not be over looked and that is Mr. Cramer was born and raised on a farm. He

lived with his father on their farm in New York State until after he was nineteen years old, and surely he must have acquired some knowledge of farming.

Mr. William DeBoer, Representative to the State Legislature from Douglas County, who is a retired farmer, but each year does a large amount of thrashing throughout Douglas County, gave me the amount of grain that he thrashed on Mr. Cramer's ranch in 1942 and 1943. In 1942, Mr. DeBoer's receipts show he thrashed approximately five thousand bushel of small grain from the Cramer farm and in 1943, which was a dry season, about twenty five hundred bushel. This was raised by Mr. Cramer and his man Joe Henry.

Young Henry, who is twenty eight years of age, impressed me as a very bright, intelligent, capable young fellow. He is in a deferred draft classification due to the fact that in his high school years in manual training, he sawed off the fingers of his right hand, and, of course, there are some things that he is not capable of doing on the farm due to that affliction. He does make, however, a good boy working there with Mr. Cramer and they seem to get along fairly well in the operation of this 640 acres of land.

I personally talked to Mr. Cramer and I asked him if he was trying to avoid the armed services. This he emphatically denied and said that everyone should do their part where they could do the most and that he felt in operating his ranch, raising three to five thousand bushels of grain, producing fifty to ninety head of cattle and hogs a year, that he was doing more in the support of his government than he could as a buck private in the rear rank.

I, myself, do not like to see anyone dodge the service to his country, and I am very doubtful if Mr. Cramer would

ever pass a physical examination in the army, and would, no doubt, be rejected and turned back to his farm, but since the Selective Service has the provisions for classification of men in various pursuits, one cannot help but arrive at that inevitable conclusion that Mr. Cramer is doing the best he can and is operating his ranch in the production of food.

I am enclosing to you some questions and answers from some of the principal witnesses that I interviewed. I am particularly calling your attention to the statement made by Judge Sharpe, and I think the Judge is in a position to know these things because he has a farm just some two or three miles west of the Cramer place and goes by there quite often. His statement herewith attached was quite impressive to me.

This report is for you, you can use any part, or all of it as you may see fit in any action or communication that you wish to make.

I trust that this will meet with your approval and will come up to your expectations in what you expected me to do.

Sincerely yours,

R. P. Harmon

Henry Poelstra

Corsica

Dick Vanderpol

"

John H. Teeselink

"

Elmer Schipper

"

Verne Beukelman

"

Marion Van Zee

"

Ray Beukelman

"

Earl Vanden Hoek

"

Arie E. Van Zee

"

E. A. Van Zee

"

Peter Westra

"

Isaac C. De Velder, Chairman Douglas County U. S. D.
A. War Board

Fred H. Breukelman, Publisher of the Corsica Globe

T. A. Gregory

Raymond E. Miller

Ed Krediet, Mayor of Corsica

McFarland, Veterinarian, Plankinton, South Dakota

Geo. Faber, Veterinarian, Mitchell, South Dakota.

Robert L. Pinnow, County Agent

Carl Floete, Chairman of the Draft Board

LeRoy Bamburg, Corsica, Implement Dealer

Mrs. John Vama Vorse (where Cramer roomed at one time)

Affiant born on a farm at Lafayette, County of Onondaga, State of New York. (Nelson Baker Cramer)

Henry Poelstra	Corsica
Dick Vanderpol	"
John H. Teeselink	"
Elmer Schipper	"
Verne Beukelman	"
Marion Van Zee	"
Ray Beukelman	"
Earl Vanden Hoek	"
Arie E. Van Zee	"
E. A. Van Zee	"
Peter Westra	"

ROY FOLKERTS' STATEMENT.

Mr. Harmon: Roy, what is your occupation?

Roy Folkerts: I am a grain dealer.

Mr. Harmon: How long have you been a grain dealer?

Roy Folkerts: Nine years.

Mr. Harmon: You buy from anyone and everyone?

Roy Folkerts: Anyone that wants to sell to us.

Mr. Harmon: Are you acquainted personally and in a business way with Nelson B. Cramer?

Roy Folkerts: Yes I am.

Mr. Harmon: Has Mr. Cramer ever sold grain to you?

Roy Folkerts: Yes. He sold a lot of grain to us. He has a lot of farms out here besides the one he operates himself.

Mr. Harmon: Do you know yourself that Mr. Cramer owns and operates a farm?

Roy Folkerts: Yes, I know that definitely.

Mr. Harmon: Have you ever visited Mr. Cramer's farm?

Roy Folkerts: I have been on the place, yes.

Mr. Harmon: Has Mr. Cramer himself ever hauled grain or produce to your elevator?

Roy Folkerts: Yes he has.

Mr. Harmon: Then you would say Roy that you believe Mr. Cramer to be as much of a farmer as any other farmer living around this

Roy Folkerts: Yes, I think so.

Mr. Harmon: There is no personal reason that you should make these statements is there Roy?

Roy Folkerts: No personal reason whatsoever. I would make these statements for anybody under the cir-

cumstances, anybody being a farmer that way, that is all there is to it, he is a farmer as far as I am concerned.

Mr. Harmon: How long has Cramer, to your knowledge, been working out on his farm?

Roy Folkerts: I don't know when he came, but think it is three years or better.

Mr. Harmon: But he has actually been engaged in farming on his farm in the last three years?

Roy Folkerts: I wouldn't say three years for certain. These times go so fast that I can't keep up with them.

Mr. Harmon: You know Roy why that I am here in regard to Mr. Cramer's military induction status—You would say then without fear or favor that you consider him an actual dirt farmer.

Roy Folkerts: I do absolutely, because I am not the kind just to want to cover someone up to keep them out of the army as I don't believe in that. The farmers being deferred, he has just as much right as anybody. But the quicker we get away from that, the better. Deferring farmers is wrong in the first place. But since Mr. Cramer is a farmer, he has just as much right as anybody.

Mr. Harmon: To your knowledge or belief, has there been any friction in the community about Mr. Cramer's induction into the service?

Roy Folkerts: Well as far as I know it is just between a few certain parties is all, but the people as a whole, I don't think so.

Mr. Harmon: Do you know any reason why this feeling has arisen?

Roy Folkerts: Well maybe we shouldn't put that in record. It is just politics to my notation is the greatest extent.

Mr. Harmon: Was there any reason why he knew these antagonisms should arise in this community?

Roy Folkerts: The party he has his trouble with is on the other side of the fence. In other words he is not sticking his neck out. Mr. Cramer never did want to be regimented and we all know that is the bone of contention—having his property here and getting considerable property since they have regimented them into Triple A, I think that is where the whole trouble is.

Mr. Harmon: Then by personal observance and knowledge of what constitutes a farmer in this community, you would say that Mr. Cramer was a One 'A' or First Class farmer?

Roy Folkerts: He is strictly a farmer—that is what he is and really works at the job, absolutely, and I will say that to anybody. I am not trying to cover up for anybody, and as I said before I don't believe in deferring anybody, but that is law. I know if my number came up, I would want to go.

Mr. Harmon: How long have you lived here?

Roy Folkerts: Seventeen years.

Mr. Harmon: To the best of your knowledge and belief Roy, the statements are true and correct?

Roy Folkerts: Yes.

MRS. DICE'S STATEMENT.

Mr. Harmon: How long have you lived here in Corsica?

Mrs. Dice: Since 1917.

Mr. Harmon: You are quite familiar with people and records?

Mrs. Dice: I have been in the banking business since that time, about twelve years back.

Mr. Harmon: How long have you known Mr. Nelson B. Cramer?

Mrs. Dice: I believe it was 1940 when he came here to look at the interests of his land. I think that was the first time I became acquainted with him. I never had any business dealings until about that time.

Mr. Harmon: You have some business dealings with him now?

Mrs. Dice: No. I sold him the old bank building and a couple of farms.

Mr. Harmon: Have you ever visited Mr. Cramer's farm on which he resides?

Mrs. Dice: Yes. I have been out there to dinner. On insurance business. My son does insurance work. I work with him. We know all his farms around here because we have insurance on them.

Mr. Harmon: On Mr. Cramer's farm?

Mrs. Dice: Yes.

Mrs. Dice: We sold him a place, two or three places right near where he lives. He has a man Mr. Henry that lives with him.

Mr. Harmon: Well, Mrs. Dice, as you think of a farmer around through this community, would you honestly and conscientiously say that Mr. Cramer was a farmer.

Mrs. Dice: I don't know what you call a farmer. Whatever you call farming, I think he does as much as any other farmer around here. I consider him quite a big farmer myself. Of course he has so much to put in that he does have to hire help.

Mr. Harmon: Mrs. Dice, besides managing his farms, do you have a personal knowledge that Mr. Cramer does actually farm, or what we might say actual dirt farming?

Mrs. Dice: He goes out and puts in his grain; helps with the harvest; husks corn; feeds his stock—I know that, as I have seen him do these things.

Mr. Harmon: Personally?

Mrs. Dice: Yes Sir.

Mr. Harmon: You know that there has been a heated controversy over Mr. Cramer's military status and a Mr. De Velder who is County Chairman of the AAA Board states that Mr. Cramer never does manual labor himself, but hires it all done. From a personal knowledge could you refute that statement of Mr. De Velder?

Mrs. Dice: I don't like to contradict anyone's statement, but to the best of my knowledge, I would say that Mr. Cramer actually does farm and looks after his places.

Mr. Harmon: Mrs. Dice, simply because you might do a little insurance business with Mr. Cramer would not lead you as an American citizen to try to defer anyone who you feel should do military service to the United States, would it?

Mrs. Dice: Indeed not. I feel about Mr. Cramer the same as anyone else that should be asked for military service and if he qualifies, he should go the same as my son or anyone's. But I don't think Mr. Cramer would even pass if he were to go. I have told Mr. Cramer that if it were me, I would take an examination for the Army or Navy for the good of his country, but he feels that with the interest he has in property that he should be exempt, the same as any other farmer. That is what he has told me. The reason I made the affidavit was purely because he is as much a farmer as any other farmer around here, and more so. It is friendship, not past business that has anything to do with that at all. We could get along very nicely without his business. If I

wanted to be dishonest, I would not attempt to make a false statement to keep anybody from the Army. My son didn't pass and I feel very sorry about it. He spoke several times about enlisting, but I felt he should wait until he was called. I think a mother knows her children better than they do themselves sometimes.

Mr. Harmon: To the best of your knowledge the above statements are true, Mrs. Dice?

Mrs. Dice: To the best of my knowledge they are true. I believe in being fair. I don't believe in contradicting anybody's statement. I believe in fair play to every American citizen.

JOE HENRY'S STATEMENT.

Mr. Harmon: How old are you Mr. Henry?

Joe Henry: Twenty eight.

Mr. Harmon: How long have you lived in South Dakota?

Joe Henry: Two years.

Mr. Harmon: When did you come here?

Joe Henry: I didn't stay here the first time I came through. It was in the spring of 1940 when I came here. We went back East, gone about three months and back again in the fall.

Mr. Harmon: Have you lived here since the fall of 1940?

Joe Henry: No. It was 1941.

Mr. Harmon: What time in 1941

Joe Henry: It was in the fall of 1941.

Mr. Harmon: The fall of 1941. Did you come here with the intention of living in South Dakota?

Joe Henry: Yes.

Mr. Harmon: Was that previous to the United States entry into the World War?

Joe Henry: Yes.

Mr. Harmon: You came here with Mr. Cramer?

Joe Henry: Yes.

Mr. Harmon: The idea your coming was to work on Mr. Cramer's farm?

Joe Henry: Yes.

Mr. Harmon: And you have lived with him on the farm since the fall of 1941?

Joe Henry: You see in the fall we bought some cattle when the sales were going around. Then he had some business in California and I went with him, and then returned and have lived here since.

Mr. Harmon: All of this was previous to Pearl Harbor or December 7, 1941?

Joe Henry: Yes.

Mr. Harmon: You worked on Mr. Cramer's farm as his hired man?

Joe Henry: Yes.

Mr. Harmon: How many acres of ground do you actually cultivate?

Joe Henry: There must be in the neighborhood of about 350.

Mr. Harmon: Well that is in round number, approximately?

Joe Henry: Yes.

Mr. Harmon: Do you have any other help besides you and Mr. Cramer?

Joe Henry: No, not right now. Have had off and on during the harvest and rush periods.

Mr. Harmon: How many head of cattle do you have on the farm?

Joe Henry: Fifty head.

Mr. Harmon: Is that about an average amount of cattle or stock. You usually have a pretty big bunch of cattle.

Joe Henry: This time last year we had ninety two. We have registered cattle now. Keep the grade cattle for milk.

Mr. Harmon: Joe, does Mr. Cramer actually work on the farm at manual labor doing the same kind of work of any farmer or farm hand would do?

Joe Henry: Yes.

Mr. Harmon: In other words, he actually feeds the cattle, drives the tractors, hauls the grain and is engaged in actual farming?

Joe Henry: Yes.

Mr. Harmon: Mr. Henry, are there other farmers living near or around Mr. Cramer's ranch who have exchanged work with Mr. Cramer?

Joe Henry: Yes.

Mr. Harmon: Would you give me the name of one or two of the farmers?

Joe Henry: John Teeselink and William Muckey.

Mr. Harmon: Has there been any regular employed on the ranch with you and Mr. Cramer since 1941.

Joe Henry: No. The longest one we have had there has been about seven months.

Mr. Harmon: The rest of the time you and Mr. Cramer do all the work.

Joe Henry: Yes.

Mr. Harmon: Would you say that he puts in as much time and does as much work on a basis with yourself?

Joe Henry: Equally divided. He does his share of the work.

Mr. Harmon: Would you take us to the ranch so that we could personally look over the farming interest of Mr. Cramer at this time?

Joe Henry: Yes.

Mr. Harmon: You don't know of any personal reason outside of the fact that his farming interests that Mr. Cramer would not want to serve in the armed forces of the United States?

Joe Henry: No.

Mr. Harmon: Then you consider Mr. Cramer an actual dirt farmer?

Joe Henry: Yes.

Mr. Harmon: How do you account then for the fact that a Mr. De Velder, Chairman of the South Dakota War Board has written statements to Mr. Cramer's Draft Board stating that he is not a farmer but an over-seer?

Joe Henry: That I don't know, because there has been nobody on the place to see what he has been doing at all. The only farmers that have been on the place is a Mr. Ver Steeg in the Triple A to come out and check our crops to see the number of acres.

Mr. Harmon: How far does Mr. Isaac C. De Velder live from Mr. Cramer's ranch?

Joe Henry: If you go right to the house, it is a mile, but his land is only one half mile from us, north.

Mr. Harmon: Are Mr. De Velder and Mr. Cramer friends, or has there been words and controversies between them?

Joe Henry: Well, by that if you mean passing the time of the day to each other yes. If they get to arguing on this Triple A, I would say no.

Mr. Harmon: Have they had arguments on the Triple A?

Joe Henry: Yes.

Mr. Harmon: Where did these arguments take place?

Joe Henry: In the Triple A office in the Court House in Armour—all of the ones I have been present at.

Mr. Harmon: Were you present at some of these arguments?

Joe Henry: Yes.

Mr. Harmon: Did they become quite heated?

Joe Henry: Yes.

Mr. Harmon: Were any attempts of undo persuasion or statements made at those arguments?

Joe Henry: Yes there was.

Mr. Harmon: What was said to the best of your recollection?

Joe Henry: They were arguing about the Triple A. Ike (De Velder) against Nelson (Mr. Cramer) of wanting to come out here and run the county. De Vedler told Cramer that he was just those G..... D..... small potatoes from New York. He made the statement that it was too bad that Nelson hadn't got his the same time as his dad got his.

Mr. Harmon: In other words you think there is some enmity between the two men?

Joe Henry: Yes there is.

Mr. Harmon: Mr. Henry, you say you are twenty eight years old. What did you do previous to coming to South Dakota?

Joe Henry: I was going to Junior College before I came to South Dakota.

Mr. Harmon: Did you finish High School?

Joe Henry: Yes. I took post graduate work too.

T. M. PAULSON'S STATEMENT.

Mr. Harmon: You are a Member of the Draft Board of Douglas County?

Mr. Paulson: Yes.

Mr. Harmon: Do you have any knowledge or rumors of this man Mr. Cramer going

Mr. Paulson: I don't know a thing.

Mr. Harmon: You know nothing?

Mr. Paulson: Not a thing. All I know Mr. Cramer was down here once and said that the Sherriff had said that I sent him out to look at his draft card. I said that was a lie, I didn't think that was any of my business, that there must be other Boards to check up on him. We never have been called upon in any way through the Selective Service.

Mr. Harmon: From a personal knowledge, do you know anything about Mr. Cramer as a farmer?

Mr. Paulson: I know nothing. I see Mr. Cramer on the streets and that is all. Never been on his place.

Mr. Harmon: You don't know then whether he farms or not?

Mr. Paulson: No sir, I don't.

Mr. Harmon: Has he ever made any shipments of grain, cattle or produce?

Mr. Paulson: He never has made a shipment of any kind on this railroad. That doesn't mean a thing. Big farmers don't make shipments over the railroad.

Mr. Paulson: I will say that I don't see why he shouldn't be in the army, he is wealthy, has as much to defend as you and I.

Mr. Harmon: That is what I am trying to find out.

Mr. Harmon: Has your local Draft Board ever discussed Nelson B. Cramer's military status?

Mr. Paulson: As a Board, no, we never did.

Mr. Harmon: Never have been asked to either?

Mr. Paulson: There is a file down there on him, but I wouldn't want to say right now either whether we ever officially discussed him or not.

Mr. Harmon: Could we see this file?

Mr. Paulson: I don't know, you would have to see the Clerk. There was a man here last summer from the newspaper out in California investigating Mr. Cramer. He sent me a copy of the paper. He was a very nice fellow. He said he was a Reporter from Long Beach. I have no desire to get tangled up. He doesn't mean (snap of his finger) to me.

Mr. Harmon: I don't want to either.

Mr. Paulson: I have two boys in the service and I think there are a lot of other boys that should be in the service. I have never made in public a statement about anyone should go to the Army.

MR. MUCKEY'S STATEMENT.

Mr. Harmon: You live on one of Mr. Cramer's farms?

Mr. Muckey: Yes.

Mr. Harmon: How long have you lived here?

Mr. Muckey: Two years.

Mr. Harmon: Have you ever exchanged work with Mr. Cramer?

Mr. Muckey: What do you mean?

Mr. Harmon: Have you ever, like you farmers do, exchange work?

Mr. Muckey: Yes, I have that, you bet.

Mr. Harmon: Have you ever seen Mr. Cramer actually engaged in manual labor on his farm?

Mr. Muckey: Yes I have. I have seen him scoop grain and

Mr. Harmon: Have you seen him plow the field with his tractor?

Mr. Muckey: I can't say—I have been busy at my own place.

Mr. Harmon: He farms his own farm?

Mr. Muckey: As far as I know he handles what is farmed over there.

Mr. Harmon: He has been doing that for a couple of years?

Mr. Muckey: Yes, maybe three years, isn't it Joe?

Mr. Harmon: That is all. I wondered if he actually did the work or over see on his place.

Mr. Muckey: As far as I know he takes care of his place.

JUDGE SHARPE'S STATEMENT.

Mr. Sharpe: I will make a statement something like this for you:

"I have been County Judge since January 1, 1915, except four years when I was States Attorney. I will not hold Mr. Cramer up as a saint. He has his faults and his virtues, and my relations with him have been pleasant. He is honest and trustworthy. I have never known him to cheat anyone. He doesn't drink a drop to my knowledge, smoke nor gamble, or loiter in the Pool Halls or questionable places. He is energetic.

I have visited his 640 acre farm in Iowa Township, Douglas County, a number of times. I own land west of him. His land is located in a good productive area and is devoted to small grain and livestock, and like other farms in his community.

I have seen him in over-alls, mending fences, oiling machinery, loading hogs for market, hauling farm produce, hauling fence posts and material to his farm, and on one occasion that I was out there he was helping the Veterinarian from Plankinton vaccinate hogs and cattle. Cramer was out in the pasture driving the animals up into the pen. I have seen him do other farm work and he appeared to me to be devoted to his work.

Last summer I noticed that the Township Supervisors graveled that mile road leading from the gravel highway to the Cramer farm entrance for his benefit.

The farm he occupies looks better now than ever before, I am told. Sam Plooster, a neighbor told me that. He built a three room garage on it in 1943. He has bought wire and many fence posts. His fences are in good shape.

Mr. Cramer lacked farm experience at first, but studied it and has done well at it. He can now talk farm problems and livestock raising as well as the average farmer. He made some bad deals, was imposed on, but also made some good deals, but all in all has made a success at farming.

His hired man, Joe Henry has been with Cramer since the middle of 1941.

I understand that Ike De Velder, who is Chairman of the AAA in Armour, dislikes Cramer intensely. He has criticized him in my presence, thinking I would relay it on to Cramer. He told the Sheriff that I would lose votes if I counseled with Cramer. He doesn't exchange farm work with De Velder, his nearest neighbor, and I would say the trouble started over the Farm Program. Cramer refused to cooperate one hundred per cent. He advised his tenants to stay out of it. He told he claimed De Velder caused his loss by advising him that he would be

eligible for barley, rye and wheat loans by merely staying inside the wheat acreage, but when it come to getting the loans on his rye and barley, De Velder told him that he hadn't complied with certain soil practices.

There has probably been some loose talking by both sides and carried to each other's ears and it was magnified. You know how those things get to going.

Some in the neighborhood don't like Cramer. He has ejected some poor tenants, and other tenants he has refused to rent to, and all of his tenants pay him two fifths instead of one third share, and they grumble. He won't accept poor excuses, doesn't hesitate to sue for payments when they are due. He dislikes anyone who fails to meet his debts.

He dresses well when on business trips. This possibly creates enmity. He didn't readily adapt himself to his environment at first, but has overcome this and now seems to get along agreeable with people.

In view of the man power shortage it would be to the best interest of our production program to give Mr. Cramer benefit of doubt and keep him on the farm. It is rather inconsistent to complain of the acute labor shortage with insisting on increasing it by inducting Cramer in the army. He is about thirty six years old, too old for good army material, so why not keep him where he can be of most benefit.

There are good and poor farmers, but that is not the issue in my opinion. The issue to be decided is whether Cramer is engaged full time in agriculture. I see no valid reason why he shouldn't be classified as all others similarly engaged. Why further handicap our farm effort by needlessly decreasing our available man power and adding to an already grave situation in keeping our production to the utmost.

ISAAC C. DE VELDER'S STATEMENT.

Mr. Harmon: How long have you known Mr. Cramer?

Mr. De Velder: I have known Cramer for I would say ten years, probably a little longer than that.

Mr. Harmon: How long has he lived here to your knowledge?

Mr. De Velder: (Gave Mr. Harmon some correspondence to read over).

Mr. Harmon: Have you ever visited Cramer's farm, Mr. De Velder?

Mr. De Velder: Oh yes, I drive right past his place. Here is the way that land lays (He shows Mr. Harmon).

Mr. Harmon: This letter you wrote, were you requested by the Selective Service Board to make a report?

Mr. De Velder: That is right, that is why I have them all together. They are right in rotation the way I have filed them.

Mr. Harmon: Mr. De Velder, for my own personal knowledge of the thing, it is a fact that Mr. Cramer lives on a farm and has lived there for two years and he has some livestock—How do you arrive at the authority to certify as to production of the farm?

Mr. De Velder: Well, I am Chairman of the War Board. What consideration we take is a man out there on a farm. This man is spending practically all of his time on the road.

Mr. Harmon: Your knowledge is that Cramer doesn't farm. He uses that place as a hide out.

Mr. De Velder: I'll tell you I don't know just what the deal is, either you are out here trying to get information, or getting information for Cramer.

Mr. Harmon: I am not interested in any one. First time I ever *meet* you or Cramer.

Mr. De Velder: That is the reason I am asking this question. This other man out here from Long Beach is evidently out for Cramer, because he has been staying out there ever since.

Mr. Harmon: This man McArthur?

Mr. De Velder: I have given to the best of my knowledge like I state in that letter. We have taken this from his records. The amount of work he had done with the help he has, certainly he doesn't spend any time on that farm, does he?

Mr. Harmon: Who is Henry Poestra?

Mr. De Velder: He is one of his neighbors that lives 1½ miles west of his place.

Mr. Harmon: In your reply to this Board, was this a request from the Board in Los Angeles to your Board here?

Mr. De Velder: That is right.

Mr. Harmon: Your reply that was made was action by the Board, or personal?

Mr. De Velder: This whole thing I have taken care of until I get to the last letter. You will see that I take care of all the correspondence because our Board is hardly ever at home.

Mr. Harmon: Your Board doesn't classify him as a farmer?

Mr. Velder: Yes, that is right.

Mr. Harmon: This was in your opinion, a conscientious opinion of your Board?

Mr. De Velder: I would absolutely say this was correct.

Mr. Harmon: How many members do you have on this Board?

Mr. De Velder: Four.

Mr. Harmon: Were they all present?

Mr. De Velder: That is what the letter states. What I would like to see is be fair to the War Board is for you to talk to the neighbors and also contact LeRoy Bamburg and Mr. De Boer, State Representative, he lives right in Corsica.

Mr. Harmon: Is there any sentiment in the community about?

Mr. De Velder: Oh no, you can take all these affidavits that he has got I told the truth as near as I could. I gave an unbiased statement. (Bamburg told that he signed because other boys were staying out of the army.)

Mr. Harmon: Have you any other statements on the deal?

Mr. De Velder: As far as I am concerned, my statement is that I have never seen Mr. Cramer do any farm work what-so-ever. Ask anybody that lives along that highway and you will find that he goes to Corsica from two to four times a day.

Mr. Harmon: You and Nelson friendly?

Mr. De Velder: As far as I am concerned I have nothing against him. As far as he is concerned, the best thing he could do to me would be to put me where I couldn't look up.

Mr. Harmon: He claimed unbeknown to him that you signed up his tenants on an AAA Program.

Mr. De Velder: No, the tenants signed themselves.

Mr. Harmon: Is there anything else you would like to tell me in this deal?

Mr. De Velder: I think I have covered this as far as I would care to go. I have conscientiously given the truth and this is my statement.

NELSON B. CRAMER'S STATEMENT.

Mr. Harmon: How old are you?

Mr. Cramer: I will be 36 the 10th of January.

Mr. Harmon: Have you ever been sick?

Mr. Cramer: I had a nervous break down, sprained back, ankle.

Mr. Harmon: How long were you afflicted with your nervous break down?

Mr. Cramer: I was in the hospital about six months. Worried over these places.

Mr. Harmon: That was two years ago?

Mr. Cramer: No, four years ago, put me in the hospital and drugged me to death.

Mr. Harmon: What are you going to do about it if you don't get any action through here to be out there for Monday morning?

Mr. Cramer: I don't know. I have to be there. May drive to Omaha tomorrow night and catch the train out.

Mr. Harmon: You don't have any fear or dread of induction into the service?

Mr. Cramer: Hell no—I would have it much easier in the army.

WILLIAM DE BOER'S STATEMENT.

We interviewed Mr. De Boer and he wants to emphatically stand by the statement that he made. He thrashed two years for Mr. Cramer and approximately five thousand bushels of grain was thrashed last year. Thrashed again this year, and it was around a sixty dollar thrash bill, or about twenty five hundred bushels.

Mr. Harmon: Mr. De Boer did Cramer work at the farm as far as you could determine?

Mr. De Boer: Yes, as far as I know he does farm labor and farm work. He has two hired men and know that he knows something about farming. There are some things he has an eastern thought on farming than from here. He is a good citizen.

(Mr. De Boer made the statement upon his honest opinion.)

(He really believes he should be classified as a farmer.)

FARMS.

160 Acres—Wynand Plooster, Tenant. Also signed affidavit for Mr. Cramer.

Three miles West and One Mile North of Corsica.

160 Acres—Ray Bordewyk, Tenant.

Three miles West and two miles north of Corsica.

160 Acres—Henry Groeneweg, Tenant.

Three miles west, two miles north, then one and one half mile west again.

160 Acres—Marion Krediet, Tenant.

8½ miles West.

160 Acres—F. Brower, Tenant.

Nine miles West. (Two old bachelors lived on this place for 43 years. Renters all that time. They now sublease the land and live in town.)

217 Acres—This belongs to Joe Henry. (De Velder's son now lives on this place.)

160 Acres—Wm. Muckey, Tenant.

Nine miles west and 2½ miles south.

217 Acres—John Teeselink, Tenant, second year.

9 miles West. Across is where Isaac De Velder farms. Practically same amount of land.

One bare quarter. Nelson's also.

64 Acres hay land. Tenant takes care of cultivated land. We receive the hay land. Eight miles west.

One quarter across road bare is included in where they live. Three quarters strung out.

100 Acres cultivation on home place.

One set of plans for each place. All alike, except where something has burned and had to be replaced.

64 Acres hay

50 head cattle

30 head hogs (sold 17)

100 chickens

4 horses

Tractor

Seeder

Rake

Mower

Disk

Cultivator

2 Wagons: One hay; One grain box

2 —16" double plows

Feed grinder

Truck: grain box and stock rack

4 section drag—Harrow

Tractor Cultivator

Endorsed: Filed Dec. 16, 1943.

At a stated term, to-wit: The September Term, A. D. 1943, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Thursday, the 16th day of December, in the year of our Lord one thousand nine hundred and forty-three.

Present:

The Honorable: Paul J. McCormick, District Judge.

No. 3319-RJ

In the Matter of the Petition of

NELSON B. CRAMER

for Writ of Habeas Corpus.

Good cause appearing therefor, it is ordered that this cause be transferred to the Division of Judge Jenney for all further proceedings.

It appearing to the Court that the Writ of Habeas Corpus issued December 13, 1943 having been inadvertently served upon Col. Wm. W. Hicks, C. A. C., the same is ordered discharged and said Col. Hicks is relieved of any responsibility or response thereunder, and petitioner having this day, through his counsel, Philbrick McCoy, Esq., presented for consideration and filing, an Amended Petition for Writ of Habeas Corpus, the Court, in the presence of respective counsel, James M. Carter, Esq., Assistant U. S. Attorney, Philbrick McCoy, Esq., for the Petitioner, the Government having interposed no objection thereto, considers said Amended Petition, deems the same sufficient, accordingly, orders

said Petition filed and directs the issuance of a Writ of Habeas Corpus directed to Col. Jesse J. France, Commanding Officer, Reception Center, Fort Mac Arthur, California, to be returnable before Judge Ralph E. Jenney, in Courtroom No. 3, United States Post Office and Court-house building, Los Angeles, California, on December 29th, 1943 at ten o'clock a. m.

It is further ordered that all exhibits annexed and appended to the original Petition for Writ of Habeas Corpus herein, be considered annexed to, appended to and marked as exhibits, to the Amended Petition for Writ of Habeas Corpus filed this day, the same to be considered by the Court at the hearing on the return, on December 29th, 1943.

HABEAS CORPUS.

United States District Court, Central Division, Sou.
District of Calif.

THE PRESIDENT OF THE UNITED STATES OF AMERICA.

To Col. Jesse J. France, Commanding Officer, Reception
Center, Fort MacArthur, California,

Greeting:

You are hereby commanded, that the body of Nelson B. Cramer by you restrained of his liberty, as it is said detained by whatsoever names the said Nelson B. Cramer may be detained, together with the day and cause of being taken and detained, you have before the Honorable Ralph E. Jenney, Judge of the United States District Court in and for the Southern District of California at the court room of said Court, in the City of Los Angeles, Cal. at 10 o'clock a. m., on the 29th day of December, 1943,

then and there to do, submit to and receive whatsoever the said Judge shall then and there consider in that behalf; and have you then and there this writ.

Witness the Honorable Paul J. McCormick, United States District Judge at Los Angeles, California, this 16th day of December, A. D. 1943,

(Seal)

EDMUND L. SMITH,

Clerk.

By B. B. HANSEN,

Deputy Clerk.

RETURN ON SERVICE OF WRIT.

United States of America)
Sou. Dist of Calif.) ss:

I hereby certify and return that I served the annexed Petition for Writ of Habeas Corpus, Amendment and Writ of Habeas Corpus on the therein-named Col. Jessi J. France, Commanding Officer, Reception Center, Ft. McArthur by handing to and leaving a true and correct copy thereof with Col. Jesse J. France, Commanding Officer, Reception Center, Ft. McArthur personally at Ft. McArthur in said District on the 16th day of Dec., A. D. 1943.

Robert E. Clark,

U. S. Marshal,

By John P. Brooke,

Deputy.

Marshal's Fees	\$4.00
Mileage	\$1.62
Expenses	\$.....
Total	\$5.62

Endorsed: Filed Dec. 20, 1943.

[Title of District Court and Cause.]

RETURN TO WRIT OF HABEAS CORPUS.

Comes Now Colonel Jesse J. France, and for his Return to the Writ of Habeas Corpus states as follows:

That he is a Colonel in the Army of the United States and is Commanding Officer of a Reception Center, Fort MacArthur, California;

That the records and files concerning Nelson B. Cramer, petitioner herein, show that on December 2, 1943 said Nelson B. Cramer reported to an Induction Station under the Selective Service and Training Act and took the oath for induction into the Army of the United States and was thereupon assigned Serial Number 39719417; that the said Nelson B. Cramer was assigned to the Enlisted Corps Reserve and was, pursuant to the Regulations of the United States Army, allowed to proceed to his home and given orders to report on December 23, 1943 at 8:45 A. M., at the Pacific Electric Station, 156 West Ocean Boulevard, Long Beach, California, for transport to Fort MacArthur, California; that the records and files concerning Nelson B. Cramer were thereupon forwarded from the Induction Station to the Reception Center at Fort MacArthur;

That the furlough so granted to Nelson B. Cramer has been extended to December 29, 1943; that the said Nelson B. Cramer has not yet reported to said Reception Center and will not report until late on December 29, 1943; but the respondent is informed and believes that the said Nelson B. Cramer will be personally present in the Court Room of the Honorable Ralph E. Jenney in the United States Post Office and Court House at Los Angeles on December 29, 1943, at 10:00 A. M.;

That the petitioner is not detained or restrained of his liberty except as set forth above, but that petitioner is now in the Army of the United States and subject to the rules and regulations of the Army and subject to orders of the Officers of the Army of the United States, including this respondent;

That your respondent has no information as to the steps and proceedings leading up to the classification and induction of the said petitioner except as set forth in the Petition for Writ of Habeas Corpus served upon him, but respondent is informed and believes that all proceedings concerning the classification of petitioner, the order to report for induction, and induction were carried on pursuant to the rules and regulations as set forth in the Selective Service and Training Act of 1940;

That basing his belief on the facts and matters above set forth, your respondent denies generally and specifically each and every allegation set forth in the Amended Petition for Writ of Habeas Corpus in Paragraphs I to IV, inclusive, except as heretofore set forth by this respondent;

Wherefore, respondent prays that a hearing be had in the above matter; that the Court discharge the Writ of Habeas Corpus, and that this respondent be released of further appearance before this Court.

Jesse J. France,
Jesse J. France,
Colonel, Army of the United States.

[Verified.]

[Endorsed]: Filed Dec. 23, 1943.

[Title of District Court and Cause.]

STIPULATION AS TO TRAVERSE TO RETURN.

It is stipulated between the petitioner in the above entitled matter, Nelson B. Cramer, by his attorney of record, and by the respondent, Col. Jesse J. France, by the United States attorney for the Southern District of California, his attorney of record, that the Amended Petition for Writ of Habeas Corpus filed herein December 16, 1943, shall constitute petitioner's traverse to the Return of Writ of Habeas Corpus made by said respondent.

Dated at Los Angeles, California, December 29, 1943.

Philbrick McCoy
PHILBRICK McCOY
Attorney for Petitioner
CHARLES H. CARR
United States Attorney
JAMES M. CARTER
Asst. United States Attorney
By JAMES M. CARTER
JAMES M. CARTER
Attorneys for Respondent.

[Endorsed]: Filed Dec. 30, 1943.

PETITIONER'S EXHIBIT 1.

United States Department of Agriculture
U. S. D. A. War Board
Armour, South Dakota

August 18, 1943

Local Board #271
Long Beach, California

Gentlemen:

Your letter of August 12 addressed to Mr. L. Q. Ellis of Mitchell and which inquires as to Nelson Baker Cramer has been referred to the writer as chairman of the U. S. D. A. War Board of Douglas County, South Dakota.

The writer, being also the chairman of the Douglas County Agricultural Conservation Association, has access to the records of such organization and from such records and also as the nearest neighbor to the farm occupied by Mr. Cramer, answers your inquiry as follows: That Mr. Cramer, through inheritance, is the owner of a substantial acreage of farm land in Douglas and other South Dakota counties. That Mr. Cramer was not personally engaged in farming prior to the entry of the United States into present war.

That all of his farm land had been and, with the exception of 569 acres, now is rented out to tenants operating upon their own account on a 2/5th's share basis.

That as to such rented lands Mr. Cramer's sole responsibility is the collection of rentals from such tenants and, of course, the customary observation and supervision that any owner of property practices to prevent waste or damage.

That as to the 569 acres of which Mr. Cramer took actual possession on March 1, 1942. The facts are that

(Petitioner's Exhibit 1.)

343 acres are crop land and the remainder is hay and pasture land.

That reporting as to the current farming season Mr. Cramer stated to the Agricultural Conservation Association that his intentions were to plant 150 acres of corn and 220 acres of small grain but that in fact he did plant approximately 275 acres of corn and 68 acres of small grain.

That during the 1943 planting season Mr. Cramer employed three hired men continuously but that notwithstanding such fact Mr. Cramer employed one, Tim Krediet, to drill in all of the small grain, to plant all his corn and to plow 100 acres of the corn ground, using his own machinery and equipment, such being known as custom work in this area.

That at present Mr. Cramer has two hired men on his farm.

That at no time during the past two years has Mr. Cramer personally done any farm work whatever himself.

That at no time has Mr. Cramer displayed any knowledge of farming which would qualify him to supervise the hired men doing the work on such farm.

That according to the A. C. A. records as of January 1, 1943, the following livestock was maintained upon Mr. Cramer's farm, viz: 68 head of cattle, of which all but one are stock cattle, only one of the same being a milk cow, 80 head of pigs, 150 hens, 3 brood sows.

I will be pleased to give you any further available information which you may require.

Respectfully yours,

Isaac C. De Velder,

Chairman Douglas County U. S. D. A. War Board

(Petitioner's Exhibit 1.)

September 3, 1943

Isaac De Velder, Chairman
U. S. Department of Agriculture
County War Board
Armour, South Dakota

Re: Nelson Baker Cramer, Order No. 1915

Dear Sir:

This will acknowledge your letter of August 18, 1943, regarding the above named registrant and we thank you for the complete report.

No formal action has been taken upon reclassification by the members of this board, as a special effort is being made to have a full board present when final decision is made. Due to the pressure of work in the business world, one or two board members could not meet on days scheduled for meetings. At present, we have a meeting tentatively arranged for September 8, 1943, for a thorough review of recent facts received for Mr. Cramer's file.

Owing to the fact this case in the past presented a problem when classification was being considered, it is the desire of the board at this time to clarify certain statements which seem to conflict. We are in receipt (September 2, 1943) of affidavits submitted under date of August 10, 1943, by the following persons who are residents of Douglas County with the exception of one: R. L. Dice, Mrs. M. A. Dice, William Noteboom, John Hoekman, William Gruenwald, Roy Folkerts, Dr. George Faber

(Petitioner's Exhibit 1.)

(County of Charles Mix), Edwin Muckey, and William Muckey. Affidavits signed by Edwin and William Muckey were not witnessed by a notary.

Each of these nine affidavits attest to the fact that Mr. Cramer has been working in the field, doing all kinds of farm work personally, and driving a tractor, and the affiants say under oath they witnessed Mr. Cramer in person so engaged.

We are also in receipt of photostatic copies of a Certificate of Farm War Service, and a letter dated June 1, 1943, mailed to Nelson B. Cramer.

In your position of a person granted authority to certify to the production and activities of farmers and their employees, we will ask your further *assistant* in this instance. What explanation can be offered for the reason nine persons state they have seen Mr. Cramer doing the farm work himself, and yet we have a statement saying that Mr. Cramer has never undertaken to do any work whatsoever.

You understand, Mr. De Velder, we are not taking exception to your letter of August 18, 1943, it is only that we are frank to say we are perplexed, and if you can throw some light on the situation, we will appreciate it.

Yours truly,

W. F. Prisk,

Chairman Local Board No. 271

(Petitioner's Exhibit 1.)

United States Department of Agriculture
U. S. D. A. War Board
Armour, South Dakota

September 7, 1943

Local Board #271
Long Beach, California

Gentlemen:

The writer acknowledges receipt of your letter of the 3rd and to say that I am astonished by its content is to put the matter very mildly.

My letter to you was written in an official capacity and was for the sole purpose of discharging the duty I assumed as chairman of the Douglas County U. S. D. A. War Board. I am not authorized to enter into controversies as to facts nor do I feel justified in attempting to disprove anything which may be contained in affidavits procured by the registrant and filed with you.

However, I feel that I can properly point out:

1. That R. L. Dice and his mother Mrs. M. A. Dice, write the insurance on the Cramer properties.
2. William Noteboom operates a gasoline and oil business and is the principal, if not sole, supplier of Mr. Cramer.
3. John Hoekman and Roy Folkerts operate an elevator and buy practically, if not all, grain produced on all of the Cramer farms.
4. William Gruenwald has been engaged in the purchase and sale of livestock for Mr. Cramer.
5. Dr. George Faber is a Veterinarian from Mitchell (50 miles distant from the Cramer farm) and does Mr. Cramer's work for him.

(Petitioner's Exhibit 1.)

6. Edwin Muckey has rented a Cramer farm, and William Muckey is at *he* present time on a Cramer farm.

Aside from Edwin Muckey and William Muckey, all of the persons above named reside at least 13 miles away from Mr. Cramer's farm and could not have had very many opportunities to observe his farming operations.

As previously stated, I am not in a position to enter into any controversy as to whether the statements I have made are truthful facts or not but if you wish to find out for yourselves I would suggest that you write to Mr. Cramer's neighbors, and I accordingly herewith submit a list of neighbors, living within one and one-half miles of him, viz:

Henry Poelstra	Corsica, South Dakota
Dick Vanderpol	" "
John H. Teeselink	" "
Elmer Schipper	" "
Verne Beukelman	" "
Marion Van Zee	" "
Ray Beukelman	" "
Earl Van Den Hoek	" "
Arie E. Van Zee	" "
E. A. Van Zee	" "
Peter Westra	" "

Yours respectfully,

Isaac C. De Velder,

Chairman Douglas County U. S. D. A. War Board

[Stamped on Face] :

Local Board No. 271 91

Los Angeles County 037

Sep 10 1943 271

Woodrow Wilson High School
Long Beach, California

(Petitioner's Exhibit 1.)

United States Department of Agriculture
USDA War Board

Armour, South Dakota

October 4, 1943

Local Board No. 271

Woodrow Wilson High School

Long Beach, California

Dear Sirs:

Re: Nelson Baker Cramer

We the undersigned members of the Douglas County
USDA War Board in meeting on October 4th, 1943, after
carefully investigating and checking his records find that
in our opinion Mr. Nelson Baker Cramer is not essential
to the operation of his farm.

/s/ Isaac C. DeVelder, Chm.

Robert L. Pinnow, Secy.

S. J. Clarke

W. H. Bymers

The above action constitutes the unanimous vote taken
by all board members.

[Stamped on Face]:

Local Board No. 271 91

Los Angeles County 037

Oct 8, 1943 271

Woodrow Wilson High School

Long Beach, California

(Petitioner's Exhibit 1.)

October 12, 1943

Selective Service Board #271

Long Beach, California

Gentlemen:

I wish first to state that I appreciate very much this opportunity to be here and present my case to you personally. I am somewhat handicapped in talking to you for I had no training or experience to guide me, all my young manhood and adult years having been spent either in the business world or on a farm. And so as to condense as much as possible my whole presentation, I have reduced it to writing. After hearing me read it, if there are any questions at all I shall do the best I can to answer them.

I was born on a farm near the city of Syracuse, New York, owned and operated by my father. We raised the usual crops, such as potatoes, cabbage, hay, grain, peas—sheep and cattle, and I there began the experience of practical farming. This continued under my father's guidance until he was murdered on October 31, 1933 (incidentally the man who committed the crime is still in the penitentiary) after which time I continued to make this New York farm my home, save for some incidental employment in the business world and such absence as were required to manage the South Dakota properties.

During the year 1929 a Great Uncle died in Yankton, South Dakota, leaving to my father and me some 2100 acres of land. By an understanding between my father and me, the handling of our joint lands in South Dakota fell to me. And in discharge of that duty I made many trips to South Dakota throughout the years, and spent

(Petitioner's Exhibit 1.)

lots of time there. After the murder of my father, all of his interests passed to me. The total of these holdings was about 1300 acres plus 214 in New York State.

Beginning in about 1930, a series of draught years commenced in South Dakota and crop failures year after year was the unfortunate result. Thousands of farms were abandoned and it is historically true that farms which had been worth \$100.00 per acre were going unsold at \$10.00 per acre. Taxes, insurance, upkeep and all the expenses of ownership continued. I was forced, therefore, in order to maintain the burden of ownership, to find employment outside of farming and use the money thus earned to retain possession of the South Dakota farms. These activities cover the time from 1933 to 1940. In 1940 rain again came in small amounts to my area of South Dakota.

In the fall of 1940 I began the acquisition of other farm lands near my other farms near Corsica. All in all, I bought five farms, totaling approximately 900 acres between 1940 and 1942. In 1942 I manually started to work 540 acres of the additional land purchased, in addition to my continued management and control of the other properties. I have been since living upon and actually engaged in the manual labor, attended upon raising grain, hay, corn, stock and other food stuff exactly the same as any other active farmer. These plans were conceived and put in operation long before Pearl Harbor, and I assure you that the fact that they culminated in the same crop year as Pearl Harbor was a coincidence, nothing more—nothing less. In addition, I have, of necessity, attended to the leasing, overseeing, and last but not least, financing of the balance of about 2400 acres. It is my intention

(Petitioner's Exhibit 1.)

to so continue this farming and those activities if permitted to do so.

I may call to your attention that for me to make one round trip to all of these farms entails two full days and covering a distance of 300 miles travel.

About 1933, when I was in charge of all our farming operations, I came against one, Isaac C. De Velder, a slightly older man than I, in the farming community of Corsica, South Dakota. Mr. De Velder was just beginning to develop some following in Corsica.

The community of Corsica is quite small and is composed largely of Holland Dutch families of which the De Velder family is one. At the outset of my experiences in South Dakota I was unfortunate in incurring the enmity of the De Velder family, particularly Mr. Isaac De Velder. Perhaps it was my fault, or more likely, in my judgment, it was the universal and quite human jealousy directed towards one who accumulates large land holdings. This enmity of Mr. De Velder grew more pronounced and outspoken as the years progressed. It had been my hope to manage my farms and be let alone, but this proved impossible. When the A.A.A. program came into being, Mr. De Velder was named its administrator. While it interfered greatly with my own desires, I might have gone along under an administrator who was less vindictive in his personal statements to me. In any event, over a period of 7 or 8 years, Mr. De Velder was constantly, by acts and statements, my most active adversary. He would resort to such things as endeavoring to entice my tenants to other lands, has openly stated to me that he and his friends had been running the county for twenty years or more and they would continue to do so, that they

(Petitioner's Exhibit 1.)

would make me like it, and hoped some time to run me out of the country and take over my farms. Even in the years of the worst crop failures when I was working at other trades to get sufficient money to pay my taxes, insurance, and other expenses, I was harrassed by Mr. De Velder in his private and official capacities in every way possible. However, I had faith in South Dakota and knew that once the cycle of dry years was over the land would again be productive and year after year I watched the moisture developments until in 1940 I felt we were again in the beginning year of a wet cycle. Therefore, in the spring of 1940 I began to acquire land for my home farm. And from the spring of 1940 till the spring of 1942 I acquired, by purchase, approximately 900 acres of additional land as stated, and began to stock these new holdings. I purchase over this period a good strain of pure bred Hereford stock, a good strain of Hampshire hogs, poultry, horses and other incidentals. I also purchased the necessary farm implements to properly cultivate and farm this land. I also purchased in 1940 a small frame building in Corsica, containing a vault to keep the records, from which I endeavored to conduct the many and varied business affairs connected with operation of 3000 acres of land.

There are all told 18 separate farms, each representing a separate business with separate capital investments, cost and income and the accounting, bookkeeping and other details of management, and records, must be kept apart from each other. So it can readily be seen that one central office headquarters for the handling of such records is not only a necessity but is economically sound, and I feel I need not mention that which you know, that the

(Petitioner's Exhibit 1.)

seemingly never ending reports, surveys, and questionnaires coming to farmers from many different government agencies makes it mandatory on one who is in any degree at all attempting to cooperate with those charged with the responsibility of food production as a war measure, to maintain clear, adequate and comprehensive records in a central location where they are easily and readily accessible. And it must be remembered that the owner of the farms has a responsibility in this matter not too lightly cast aside with a mere statement, such as made by De Velder in his letter of August 18—"That as to such rented lands Mr. Cramer's sole responsibility is the collection of rentals from such tenants and, of course, the customary observation and supervision that any owner of property practices to prevent waste or damage".

It was my practice to work in the field during the daytime, and during the evening hours go to my office in Corsica and take care of the voluminous detail of book-keeping, correspondence and the like—many times working as late as midnight, or after.

While I was aware and only too painfully so of Mr. De Velder's personal animosity, I did not believe that he would permit his personal antagonism to lead him into the pitfall of positive untruths. His statements that, "That at no time during the past two years has Mr. Cramer personally done any farm work whatever himself" and "That at no time has Mr. Cramer displayed any knowledge of farming which would qualify him to supervise the hired men doing the work on such farm", I hereby state clearly and without equivocation, are false, untrue and a deliberate falsehood knowingly uttered by Isaac De Velder through the request of this board for the specific

(Petitioner's Exhibit 1.)

purpose of enabling this board to disregard the affidavits of reliable citizens and other evidence submitted to you, that the statements were made by him, not only as an individual but as a representative of the Department of Agriculture of the United States with the knowledge that such untrue statements would, as the record shows they did permit this board, in spite of the actual facts to determine unjustly my status as a farmer and hence my unjust reclassification. On the contrary to his statements, I hereby state that I have personally done much of the farm work myself. That the crop records of my 640 acre farm, on which I live, shows that I have displayed knowledge of farming which qualified me to supervise hired men doing work on my farms. Regardless of the outcome of this issue, I have determined that such erroneous, biased and vindictive statements on the part of Mr. De Velder in cooperation with others regarding me, shall not go unnoticed or unchallenged with those authorities having proper jurisdiction of such matters, not only in fairness to myself but also to others who may incur his displeasure.

Mr. De Velder in his communications has by inference suggested that some of those who have given affidavits attesting that I am a farmer have done so through self interest and thus have infringed their integrity. I am happy to present to you herewith a statement from the Governor of South Dakota regarding those whom he knows and from the County Judge of others, that these people are the ordinary men of the mill, God fearing folk, who are the backbone of this nation.

I draw to your attention that about one year ago I was classified as a farmer. If I was a farmer then I am

(Petitioner's Exhibit 1.)

doubly so now. I farm more land. I have more stock. Based upon the entire file in this case and the matters brought to your attention at this personal appearance, I am firmly convinced that I am of greater benefit to this nation as a farmer, and it is, therefore, the duty of this board to classify me as 2-C.

Let me say I do not fear induction into the armed forces. I, myself, have much to gain and more to lose in this war than many men. I have no trade or skill with which to give my country other than my farms and farming. Food is a necessity. I have no relative by blood or marriage who can take my place in these farming activities and such men can not be hired and obtain for the nation the full well rounded food production which I, with my intimate knowledge of the soil conditions on each farm, can produce. I conceive it to be every man's duty and obligation to fit his own personal problems to the common good. Under this conception of my best contribution to winning the war, I firmly believe it to be in remaining on my farm, operating my other farms and with a fortitude and spirit borne of an honest conviction continue to produce to the best of my ability the food stuffs so sorely needed.

As I have stated, I believe that De Velder's statements in his communication to this board were intentionally misleading, and the reasons, therefore, are quite apparent. If through those misleading and untrue statements from him, as an official, he is able to circumvent the Farmers Draft Act, passed by the Congress of the United States, and thus remove me from the scene of my active management of these farms as well as my own work on my own farm, Mr. De Velder, as Chairman of the Triple

(Petitioner's Exhibit 1.)

"A" of Douglas County, so I understand, can take over the farms which I own in that area and operate them as he sees fit under the guise of producing food for the nation at war. I feel that Mr. De Velder and his associates have a selfish motive in declaring that I am not essential in the working of my farms because in my absence he could do as he saw fit in the handling of my properties, incurring to the benefit of himself and his associates. My experience with De Velder convinces me that if this should come about, the farms would not produce as efficiently and I have no confidence in his financial integrity to adequately and properly operate these farms.

I have finished my statement to you and will answer any questions you care to ask me to the best of my ability.

Yours very truly,

Nelson B. Cramer

Nelson B. Cramer

October 18, 1943

Selective Service Board #271

Woodrow Wilson High School

Long Beach

California

Gentlemen:

Your attention is directed to part 625.2 B of the Regulations of the Selective Service Act from which I quote:

"The registrant may present such further information as he believes will assist the Local Board in determining his proper classification. Such information shall be in writing or, if oral, be summarized in writing and, in either event, shall be placed in the registrant's file."

(Petitioner's Exhibit 1.)

Your attention is called to my letter of October 12, 1943, wherein I respectfully requested the privilege of having present at my personal appearance before your Board a competent shorthand reporter to take down and subsequently transcribe the things said at the time, which request was refused.

I feel justified in believing that from remarks made and from the attitude of some of the members of your Board that these members gave only secondary consideration to the facts involved in properly classifying me as the whole time of these certain members was consumed in accusing me of unscrupulous conduct and in directing vicious accusations and intemperate language toward me.

In order that the things said and done at the time of my personal appearance before your Board shall not be obscured in the record, attached hereto is a summary in writing of such matters as provided in the Regulations.

Kindly place this letter and the attached summary in my file.

Very truly yours

Nelson B. Cramer

[Stamped on Face]:

Local Board No. 271 91

Los Angeles County 037

Oct 18, 1943 271 3:30 P.M.

Woodrow Wilson High School

Long Beach, California

(Petitioner's Exhibit 1.)

Summary of Oral Matters Presented at Personal Appearance of Nelson B. Cramer Before Selective Service Board 271, Long Beach, California, October 12, 1943.

In company with Miss Dorothy Miller, a stenographer, and Frank Jaques, Attorney, I arrived at the Board offices on Tuesday, October 12th, at about 7:30 p.m., the time set in the notice for my personal appearance. The door was locked and we waited a few minutes. Finally, some gentlemen whom I did not know came and unlocked the door. Several gentlemen were standing on the sidewalk talking together and after a few minutes went into the building. Following, the three of us went in and I presented Mrs. Clavier, Clerk of the Board, with my letter of October 12th requesting that I be permitted to have a stenographic reporter and my attorney there. Mrs. Clavier handed the letter back to Mr. Jaques and apologized for not answering my previous letter of day before because she said it had only been received at four that afternoon, even though I had sent it special delivery. Mr. Jaques handed my letter back to her and stated that I wanted the letter made a part of the permanent file.

Mrs. Clavier then told us that there was another gentleman present and she would let him come in first, as it would only take a few minutes to dispose of the matter. Mr. Jaques said, "We will step outside", and Mrs. Clavier said, "No, that isn't necessary". But nevertheless, we stepped outside. In about five minutes this other gentleman came out and we went in. Mr. Clavier said, "I have just handed your letter to the Board. They have not had an opportunity to read it". We were able to hear

(Petitioner's Exhibit 1.)

someone reading the letter and Mrs. Clavier asked us to go outside and we told Mrs. Clavier to tell us when we could come in. In about twenty-five minutes Mr. Prisk, Chairman of the Board, came out and asked where Mr. Jaques was, Mr. Jaques having, in the meantime, gone down to the sidewalk about thirty or forty feet away. Mr. Prisk then told Mr. Jaques it was not the policy of the board to let anybody in the meeting and Mr. Jaques responded that he, personally, had not asked for permission but that I had asked for it. Mr. Prisk said to me, "Then I will tell it to you". "Our Board has made a decision not to allow your reporter and attorney at the meeting." I said to Mr. Prisk that I could not understand it as other Boards allowed this courtesy. Mr. Jaques then intervened and said not to argue with Prisk. Prisk said he would not argue the point as that was their ruling.

Mr. Prisk and I went in the building and went behind the screen where the Board was meeting at about five minutes past eight. The Board was seated with Mr. Prisk at the head of the table, with Mr. O'Brien, Mr. Horner and Mr. Wagner at the left side, and on the other side of the table Mrs. Clavier and Mr. Mc Arthur. I sat at the left of Mr. Mc Arthur. Mr. Prisk said, "Well, gentlemen, we have called this meeting to give Mr. Cramer a personal interview". "And now, Mr. Cramer, if there is anything that you have to say, you can say it now". I remarked that what I had to say I had reduced to writing and if they would permit me I would read it. I gave them four copies of my statement, and I read the statement all the way through with no interruptions. Mr. Prisk took my copy and said, "Is this all you have?" And I said, "I thought of this other after I wrote this state-

(Petitioner's Exhibit 1.)

ment and I would like to read it". And I read what I had typed on a little 3 x 5 card, and initialed it and gave it to Mrs. Clavier who threw it back at me. Later on in the evening I gave it back to her and asked her to please put in the permanent file, and she said, "All right". The card which I read was as follows:

I feel the Board is mistaken and badly so, among other reasons one being that the fact that last summer in a conversation with Mr. Prisk he made the statement that after all he knew what I was doing through my neighbors. On an inspection of the file, I found no statement from my neighbors. I understand Mr. Wagner has likewise correspondence which he states influenced him but which I have been unable to find in the file. I recognize, however, that the real issue in this case is not primarily the prejudice of the Board, but the fact of whether or not I am a farmer and whether or not I am essential to the efficient operation of the same. And in this light, I again hope that you will lay aside your personal prejudice and give weight to the 30 some affidavits of competent citizens vouched for by the Governor and Judge. In the light of the apparent prejudice of De Velder, I believe I am entitled to a 2-C Classification to accomplish greater production as intended by the Act passed by Congress to give those actually engaged in farming activities deferment.

After I had finished reading the statement on the card Mr. Prisk said, "You mean to tell me that I told you things that were not in the file". I said, "I have not been able to find those records in my file". And he said,

(Petitioner's Exhibit 1.)

"What do you mean?" I said, "Mr. Prisk, last summer when I was in your office you made the remark to me that you knew what I was doing from my neighbors up there and that I was not a farmer". And Mr. Prisk said, "You are a God damned liar". "I never made such a remark, and what I say comes from the records and I can prove it, and there is not a grain of truth in the statements that you have made". Mr. Prisk, in the statement about his conversation with me a year ago, said he never made that statement to me and said, "Are you calling me a liar?" And I said, "Mr. Prisk, just a minute". "You made the statement to me last year in your office that you knew what I was doing from my neighbors up there and that, I insist on, as being the truth". And he said, "You are a God damned liar". "I never made such statements to you". And I said, "I am sorry, very sorry, Mr. Prisk, but you did".

Mr. Wagner asked me numerous questions, so did Mr. Prisk as to how I knew I was classified 1-A before I received any official notice or communication from the Board. The Board said they had their meeting on the 10th and I was there on the 14th and that their Clerk handed me my 1-A Classification on the 14th, and I handed her a letter stating I already knew I was in 1-A Classification and they wanted to know how I knew it. Mr. McArthur made some remarks which I did not catch and one of the members said to him, "No, we have asked Cramer questions and we don't want you answering them for him". I said to them that I would have to talk with Mr. Leland McArthur to refresh my memory on that point. That I had made a number of trips to the Board and I was not certain which time I gave Mrs. Clavier

(Petitioner's Exhibit 1.)

the letter she referred to. I told them I was not sure whether I delivered the letter to the Board on my first visit to the Board or later, so before I answered that question I would have to talk to Leland Mc Arthur. Members of the Board then asked me why Leland Mc Arthur was interested and I answered, just to see that I got a fair deal because he felt I had not received one. And one of the Board said, "You realize that he is the son of A. L. Mc Arthur, a member of the Board, and I answered that I assumed as much as the name was the same.

Mr. Wagner asked me how it was that I got the affidavits signed that I was a farmer long before the De Velder letter came in and why I was doing all this to prove that I was a farmer. I replied that there was rumor in South Dakota that "I was in the Army now and had been classified 1-A" and I said, "How it gets out I do not know", and that there were plenty of rumors all over Long Beach and in Douglas County, South Dakota, and it had gotten so that there was nothing personal or private about my business and that all that I had to do was to stick my head out of the window and that everybody could tell me more about my business than I knew myself.

Mr. Horner asked me how it was that I had sent men to see him and try to change his vote. I told him that I had not sent anybody to see anyone to get them to change their vote, that what I wanted was an honest and fair consideration of my case on its merits.

Mr. Horner asked me what interest Tom Gregory had in V-Bar Ranches and was it a fact that he had a \$10,000.00 loan or a \$10,000.00 interest in the V-Bar Ranch. I answered that Mr. Gregory did not have any interest in the ranches and that all the money and expenses that I

(Petitioner's Exhibit 1.)

was put to last year in my reclassification, as expenses of attorney fees, had been repaid.

Horner then asked me how well I knew Stewart Sharp, the County Judge, and M. Q. Sharpe, the Governor of South Dakota. I answered this by saying I had known Judge Sharp for some years and Governor Sharpe since he had become Governor.

Some one of the Board then asked me if Ray Miller did not have an interest in the property. I said that I hardly knew him, that the first time I had met him was in Corsica, South Dakota, that I was going across the street and someone called me, and I turned around and, thinking it was a salesman trying to sell me something, told him that I just learned that one of my barns had been burned, and was on the way to the ranch where it burned and if this man, who called me, whom I subsequently discovered to be Ray Miller, wanted to talk to me he would have to go along. So he got in my Station Wagon and rode to the farm, the scene of the fire.

Mr. Wagner many times returned to the question as to how I knew I was 1-A and said it was a very important point and they had to find out. Mr. Mc Arthur, apparently wanted to get on with the hearing and brought up some other topics with relation to the affidavits filed but Mr. Wagner kept on talking about how I knew I was 1-A.

Mr. Prisk asked me, "Well, didn't you come to see all of us last year and didn't you think that through your meeting us that your overwhelming personality would change our vote and we would give you deferment?" And I said no, I was only hoping for the truth and you would classify me according to truthful statements in the record.

(Petitioner's Exhibit 1.)

Mr. Wagner pointed to the part in my prepared statement where I brought out the fact of the Board soliciting information from the Board in Douglas County and he wanted to know how I knew that. And he said that he did not have to have any statements or affidavits from Douglas County, that he could see from my statement in my prepared paper that there was not a truthful statement in it. He called me a damned liar several times and once, I am sure, a "God damned liar". Both Mr. Prisk and Mr. Wagner constantly referred to Leland Mc Arthur and wanted to know why he was so interested in my case. And they kept asking me who paid Ray Miller's expenses and also the expenses of the other investigation and they grilled me at some length on the cost of it. I said I had not paid a living soul and was not going to.

Wagner wanted to know how I get here from South Dakota, and said he had driven it many times and knew how long it took to get here and that I was here on the morning of the 14th. I told him I had come on the train and was mixed up on the exact dates.

I had been away from the ranch during the week of December 7, 1941, and all of a sudden Wagner asked me where I was on the morning of December 7, 1941, and then he asked me also where I was on the 7th of July, 1941, which was another of the few times that I had been away from the ranch. I told him that on July 7 I was in New York State closing up a deal for the sale of my property there and either was in New York or on my way back to South Dakota, that I arrived in Corsica about the 15th of July and that I remained there the balance of the summer buying cattle and machinery. I told him that I could not remember the exact date when I came to California

(Petitioner's Exhibit 1.)

that fall but I explained that I had had Mr. Victor Siebert, an architect, employed to draw up plans for me for farm buildings and a home that I planned on constructing on my newly acquired property in South Dakota. I also told them that as soon as I had these plans from Mr. Siebert I left California and went back to South Dakota with the idea in mind of getting the foundation laid before frost. I also told them that the frost beat me by about a week and I stayed in South Dakota all of that winter taking care of my livestock and preparing for the farm year which was to start in March, 1942. I tried to get in a question to Mr. Wagner as to how he knew that those were the only two times that I had actually been away from South Dakota and my ranch property for many months, but was constantly interrupted by other questions and never got an answer from Mr. Wagner to that one.

Mr. Horner was quite persistent in his questions about Tom Gregory being interested in my farms. I told him that it was all news to me and said, "I am again finding out more about my business than I know myself". "Who gave you that information?" Without answering, Mr. Horner said, "I asked you, wasn't Tom Gregory interested in your farms and didn't he have \$10,000.00 invested up there?" I answered, "No, he never did have."

During the entire evening many things came up about the matter of my reclassification a year ago. Someone said, I think Mr. McArthur, that somebody had written over his name to the draft board in Douglas County about me and my farming activities. And an argument ensued as to how I got classification 2-C and Mr. McArthur said it was after it went up on Appeal and I said I

(Petitioner's Exhibit 1.)

thought I got it from Colonel *Leach*. No one of the Board referred to the actual file to ascertain any facts during the entire hearing.

Wagner then asked me how I was introduced to Colonel *Leach* and how many times I had seen him and I answered, "Only one, that was when I was in his offices in the fall of '42", and he asked me, "Who introduced you?" I told him that I walked in on my own in the fall of '42 when I had made a trip to Sacramento. He repeated this question to me in several forms during the evening, but I was always able to answer him truthfully that I had met Colonel *Leach* and nobody had taken me and introduced me. During the course of the questions and answers with Mr. Wagner, he asked me how I knew he had received communication from up there and I answered, "That is common gossip, both up there and down here, and furthermore, did you not go to school with James Bandy in Huron?" He hesitated before answering and said, "Well I used to live there". And I said again, "Didn't you use to go to school with James Bandy?" And with considerable heat he said, "If anything he used to go to school to me. I was his teacher".

Mrs. Clavier asked me many questions, but they were mostly confined as to how I knew I was 1-A before she handed me a letter stating the Board had met and reclassified me. I repeated again and again that I would have to talk with Leland McArthur as to which visit to the Board it was.

I kept waiting for them to ask me about my farming activities for that was what I was there to talk about as well as to try and show them why De Velder and his

(Petitioner's Exhibit 1.)

gang were out to get me. Nobody at any time asked me a single question about my farms or what I was doing.

After I had finished reading my speech I handed Mr. Prisk the letter from the Governor of South Dakota and also the one from Judge Sharp, testifying to the integrity of the men and women who had made affidavits on my behalf. Mr. Prisk read these to the Board and when he came to Judge Sharp's letter which listed some twenty names whom Judge Sharp knew, Mr. Prisk said, "There are some twenty names of people here whose affidavits we already have", and handed it over to Mrs. Clavier to file.

Mr. Horner or Mr. Wagner, or both of them, said that they would classify me as 1-A without the De Velder letter and Wagner asked me, "How did you happen to start and get all of these affidavits coming in at a date prior to the De Velder letter?" I replied, "I received notice which was undated stating that my case was up for re-classification. I filled out Form 42-A and had Form 42-B filled out which I sent to the board", then having heard nothing from them I figured that there was still a question about my status. And I told them that I knew that there would probably be letters attacking me so I decided to get the affidavits of people who knew what I was doing. I told them that I was busy at the time threshing but that as soon as I could take the time I began to go around and get the affidavits and as fast as they were prepared I sent them on for filing. I told them that these affidavits were obtained in several different locations at different times and that I had no way of knowing for sure about the De Velder letter until I got here and saw it in my file. I told them that because I had heard nothing about my

(Petitioner's Exhibit 1.)

status I had concluded to come to Long Beach and find out about it. That as soon as I was able to leave the farm work I did come.

The question was again brought up, "How did I know that I should send those in?" "How did I know there was any question in the Board's mind?" I kept trying to explain to them that not having heard anything and knowing the viciousness of De Velder's tactics as Chairman of the War Board, I felt that I should do something to offset his activities which I felt sure he would pursue.

One of the things that came up was the fact as to whether or not this Board had ever consulted the Draft Board in South Dakota. Mr. Prisk said, "These rulings of this new letter we are going by just came out recently and we could not have written them". I told them that I thought the point was that in 1942 this Board did write to the Local Draft Board in South Dakota and finally all members of the Board agreed that they had written in '42. Mr. Wagner stated and Mrs. Clavier agreed that they did not pay any attention to that letter and that they had classified me without any reference to it. Mr. McArthur told them that that was not the way of it and that they had classified me 1-A. And I said that the only way I got my 2-C on Appeal was through Colonel *Leach*. Mr. Horner and Mr. Wagner both spoke up and said "Colonel *Leach* did not give you the 2-C, we did". Mr. O'Brien said, in effect, that the Board gave me the 2-C but that it did not come from Colonel *Leach*. Then Mr. Wagner again went back to the question of how I knew Colonel *Leach* and how I had met him.

The whole evening was spent on how I received information that I was 1-A before I got official notice and

(Petitioner's Exhibit 1.)

also how I knew that the Board had written to Douglas County for information and why the affidavits stating that I was a farmer came prior to the De Velder letter. Both Mr. Horner and Mr. Wagner kept asking me if I had not been receiving inside information and I told them, "No". And Horner spoke up and said "Maybe he just thinks he has been receiving some".

Finally, at the end of the evening Mr. Mc Arthur said, "Gentlemen, we don't seem to be getting anywhere on this. The real issue is which of these affidavits are we going to take as authentic". And someone said, "That is right". Then Mr. Prisk asked me if there were any further statements and I told them I did not think so.

Mr. Prisk then said to the members of the Board, "Are there any more questions?" and Wagner said, "I have more questions, but what is the sense of asking them—I don't get the answers".

Mr. Wagner, in discussing my prepared statement, and the part about the Board writing to South Dakota which would aid them in unjustly reclassifying me, said that this was all a lie and that by itself it would break down my whole structure.

Somebody asked me why I was putting up such a fight. And I said that I simply was fighting to protect what I had lived and fought for and to preserve what I had lived and fought for all my life. Some members of the Board said I was sending in these affidavits before I was reclassified and stated that, in effect, at that time that there was no information in the Board about me being reclassified, that it had not been talked about. Mr. Mc Arthur spoke up and said, "You know it is not that way". "This

(Petitioner's Exhibit 1.)

has been the hottest topic since he registered and it has been discussed at nearly every Board meeting”.

I, Nelson B. Cramer, hereby certify that the foregoing statement is, to the best of my knowledge and belief, a full, true and complete summary of all of the conversation and of the things done and said by the members of the Board and myself at the time of my personal appearance on the evening of October 12th, 1943, at the offices of the Local Board No. 271, Long Beach, California.

Nelson B. Cramer

Nelson B. Cramer

[Written on Face]: Rec'd Oct. 18, 1943 3:30 P.M.

SELECTIVE SERVICE SYSTEM

Local Board No. 271

Los Angeles County

Woodrow Wilson High School

Long Beach, California

October 20, 1943

STATEMENT OF PERSONAL PRIVILEGE BY W.
F. PRISK, CHAIRMAN SELECTIVE SERVICE
BOARD NO. 271 PERTAINING TO CHARGES
MADE BY NELSON B. CRAMER.

Members of Selective Service Board No. 271

Long Beach

California

Gentlemen:

As a matter of personal privilege I request that this letter be placed in the file of Nelson B. Cramer, a registrant of this Board, in refutation of false and mislead-

(Petitioner's Exhibit 1.)

ing statements which he has made in writing and in personal appearance before this Board, reflecting on the integrity of myself and other members of Selective Service Board No. 271.

Mr. Cramer has seen fit to file a lengthy statement as to his version of what happened at the meeting of our Board the evening of October 12th. It is questionable if his communication is admissible as evidence but personally I favor its inclusion as a part of the record, regardless of its many inaccuracies of statement.

In his statement which he read to this Board Mr. Cramer stated: "Mr. Prisk, last summer when I was in your office you made the remark to me that you knew what I was doing from my neighbors up there and that I was not a farmer." Mr. Cramer did call at my office and it was my impression until he made his statement to this Board that the interview was a friendly one. I recall that I told him our Board did review all the evidence that was contained in his file and made its decision accordingly.

Mr. Cramer made a false statement of fact when he charged I made the remark he attributed to me. I could not have made it for the reason I had no information as to the attitude of his neighbors, had no correspondence with them, and there was nothing in our files to reflect the feelings of his neighbors.

Remarking to Cramer that there was not a grain of truth in his charge he refused to withdraw it, and it was

(Petitioner's Exhibit 1.)

at this juncture I called him a "damn liar", but I did not blaspheme and call him a "God damned liar" as he states in his latest communication which he is asking to have incorporated in our records. I believe our clerk and other members of this Board will verify my statement.

In all humility I wish to apologize to the members of this Board for having given utterance to the unfortunate words which never should have been used by your chairman. At the time there was also flashing through my mind the charges made by Cramer that the chairman of the County War Board, to whom we had appealed for information, was violating his oath of office and trying to get control of his (Cramer's) property, that he charged this Board with prejudice and unfairness, and for a moment I lost control of myself.

I am sure the members of this Board will remember that months after the interview in my office I voted to place Cramer in a II-C classification. This I feel gives the lie to his charge that I was prejudiced against him. There was a doubt in my mind at the time as to whether Cramer was entitled to II-C but I gave him the benefit of the doubt and he was so classified. Later a directive told us when in doubt we should ask the County War Board nearest a man's property and familiar with all the facts for guidance. This was done. The County War Board reported (all members signing a statement) that Cramer was not an essential man in the farming industry and I voted to classify him I-A. Two other members of the

(Petitioner's Exhibit 1.)

Board voted the same way and he was so classified by a vote of three to two. I do not feel it is necessary or desirable for me to go into a further discussion of the issue, for it will be decided on its merits by the Board of Appeal.

In justice to myself and other members of this Board I wish to say we have "leaned over backwards" in giving every registrant a "square deal". This has surely been true in the case of Mr. Cramer. We have devoted hours and hours to his case, reading the many affidavits and every bit of evidence he has submitted, including long communications criticising our actions.

This Board has always interpreted to the best of its ability instructions laid down for us to follow. Different interpretations were placed on the directive as to admission of Mr. Cramer's stenographer at the last meeting. The majority felt records of meetings are the confidential property of Selective Service and they so voted. In his appeal Mr. Cramer has a right to allege we erred if that is his conviction.

I very definitely feel Mr. Cramer's charges of unfairness and prejudice should not be allowed to go unchallenged hence the writing of this letter for our files.

Sincerely yours,

W. F. Prisk
Chairman Selective Service
Board No. 271

WFP:NEB

(Petitioner's Exhibit 1.)

Long Beach, California
October 21st, 1943

To: Selective Service Board, No. 271
Woodrow Wilson High School
Long Beach, California

From: Jack Horner, Member Selective Service Board,
No. 271

Subject: Statement of personal privilege, in refutation of certain untrue statements and incorrect claims made by Nelson B. Cramer in a communication signed and filed by him with Selective Service Board, No. 271, and entitled: "Summary of oral matters presented at personal appearance of Nelson B. Cramer before Selective Service Board 271 Long Beach, California, October 12, 1943".

Gentlemen:

Mr. Nelson B. Cramer, registrant with this Board, has filed with the clerk of this Board a signed but not sworn to statement of what he claims were in substance the remarks made by me, him and other members of said Board on the evening of October 12th, when he was accorded a justly entitled opportunity to appear personally before the entire Board and offer any evidence or make any statements which he cared to in connection with his request for deferment from military service on the grounds of occupational status.

I have read Mr. Cramer's above-mentioned statement carefully and in full. I find therein many statements which are untrue, and because I feel that such statements of his definitely reflect on the integrity of myself and the ma-

(Petitioner's Exhibit 1.)

jority of the other members of said Board, I am filing this statement as a matter of personal privilege; and with the definite recommendation, if possible and permissible under Selective Service rules and regulations, that a thorough and sweeping investigation of this entire case be made by duly authorized officials outside the membership of said Board. I make this specific request because throughout his verbal remarks and in his written statement, Mr. Cramer accuses the members of Selective Service Board No. 271 of being "prejudiced" and "unfair". Inasmuch as this is a direct accusation against an agency of the U. S. Government; and because, if true, the members of said Board guilty thereof should be removed from office, I don't think such a charge should be allowed to go unproved.

At the outset, I desire to state emphatically and in refutation of Mr. Cramer's direct and implied remarks, both written and verbal, that I am not now and that I never have been in any manner prejudiced against him or his claims for deferment. I have viewed his entire case solely on what I conscientiously felt were the merits thereof, and based my vote on statements and evidence which are a part of his official "file".

However, after meeting him, personally, for the first time on the occasion of his appearance before our Board on the evening of October 12, and after reviewing the contents of his official "file", it is my opinion that he is suffering from a definite "persecution complex"; and motivated thereby, that he has unjustly and falsely accused me and other members of said Board of making statements which he either knows are untrue or are figments of a distorted imagination.

(Petitioner's Exhibit 1.)

Thruout his written statement and verbal remarks Mr. Cramer made several untrue and incorrect statements but I am interested in answering only those few which pertain to myself and to one specific charge which Mr. Cramer made against W. F. Prisk, chairman of the Board.

Therefore, for the sake of the official record and for the study by any authority which may investigate or review his case, I am setting forth hereinafter an accurate summary or verbatim statement of exactly what I said at the Board meeting on October 12th when Mr. Cramer was present to restate claims for deferment. Any statements attributed by Mr. Cramer to me and not specifically corrected or answered in the following contents of this communication are untrue and incorrect.

First, Mr. Cramer has accused Mr. Prisk of calling him "a God damned liar". Mr. Prisk did not use the word "God". Provoked and irritated, justifiably in my opinion, by Mr. Cramer's evasive and irritating attitude, Mr. Prisk did say to Mr. Cramer: "You are a damned liar".

Second, Mr. Cramer has taken exception to many of the questions which he claims were asked him by me and other members of the Board, and infers in his written statement that none of the questions asked him were relative or pertinent to his case. I think that all questions asked by me and most of the questions asked by other members of the Board were very pertinent to his case and offer the following explanation for accurate review thereof.

Mr. Cramer has taken exception to the case which was asked him as to the status in his case of Leland McArthur, son of A. L. McArthur, member of the Selective

(Petitioner's Exhibit 1.)

Service Board No. 271. I was personally interested in an answer to this case because thruout the various proceedings in Mr. Cramer's case, it has been evident to me and to other members of the Board that Mr. Cramer had been advised in advance of his official notification of the action taken by said Board, apparently by someone familiar with or having access to the proceedings of the Board. Mr. Cramer was asked if he knew that Leland McArthur, who visited the Board headquarters in his behalf, was the son of a member of the Board. His reply was that he "assumed" such relationship because of the similarity of the two names and that Leland McArthur appeared in his behalf because he didn't think he (Cramer) was getting a "fair deal".

Mr. Cramer has repeatedly emphasized in his written and verbal statements that certain members of Selective Service Board No. 271 have been prejudiced against him by "neighbors" of his in South Dakota. This is not the case, as far as I am concerned, I repeat, that I have never been prejudiced by anyone and the only information which I have had access to to guide me in determining Mr. Cramer's status came from official sources and to which the Selective Service rules and regulations have directed our Board to contact when any doubt arises as to the status of a registrant making claims for deferment on the grounds of occupational status; and from letters filed with the Board by Mr. Cramer himself.

I wish to state emphatically that I have never been contacted by anyone outside of the membership of Selective Service Board No. 271 and its staff about Mr. Cramer's case with the exception of two persons: namely, Tom

(Petitioner's Exhibit 1.)

Gregory, head of the Long Beach Federal Savings and Loan Association; and Ray Miller, former managing editor of the Long Beach Independent.

Inasmuch as Mr. Cramer in his written statement has elected to question the propriety of questions which I asked regarding the status of these two gentlemen in his case, and has further mis-stated both my questions and his replies thereto, I want to justify such questions and state exactly what he said and what I said in connection therewith.

Several months ago Mr. Gregory called me on the telephone and asked me if he might talk to me personally. In our conversation he explained that it was about Mr. Cramer's case pending before our Draft Board. I advised Mr. Gregory that I would much prefer to discuss such matters only in an official capacity at our regular draft board meeting but that if he insisted I would grant him the courtesy of an interview. Accordingly, he came to my office the same day and before discussing any phase of the matter with him I further explained that anything I might say during the discussion would have to be considered by him purely personal and could not be construed by him as committing the rest of the Board members or myself as to any action which might be taken by the Board officially.

On that basis Mr. Gregory explained his interest in the matter and at this time I wish to state that there was nothing objectionable or irregular in Mr. Gregory's conversation with me at that time.

In substance, Mr. Gregory stated that Mr. Cramer possessed an unfortunate personality and apparently had

(Petitioner's Exhibit 1.)

made several enemies in South Dakota where he owned large farm holdings. He further stated that he felt and Mr. Cramer felt that certain "enemies" of Mr. Cramer in South Dakota might try to prejudice our Draft Board against him. In the course of our conversation I asked Mr. Gregory what his interest in the case was and he frankly admitted to me that his company had loaned Mr. Cramer a large sum of money and that he was interested in protecting his investment which might be jeopardized if Mr. Cramer were drafted.

At the Board meeting on October 12th when Mr. Cramer was present for an investigation, I asked him what Mr. Gregory's interest was in his case. At first he evaded a direct answer and I told him that "you are not answering my question". I did not ask Mr. Cramer why *had* had sent anyone to see me to "change my vote"; neither did I say anything about "men". I explained to him Mr. Gregory's visit to me in my office and again asked him for an answer. Finally, Mr. Cramer denied that Mr. Gregory had ever made a loan on his property.

Mr. Cramer in his written statement also has stated that someone at the Board meeting on October 12th asked him "If Ray Miller did not have an interest in the property?" I was the member of the Board who asked him about Ray Miller, but I did not say anything about an "interest in the property". I simply asked him if he had sent Ray Miller back to South Dakota to make an investigation of his case. Mr. Cramer again avoided a direct answer to my question, stating that he "hardly knew" Ray Miller. I asked Mr. Cramer this question because a written report made by Miller after visiting South Da-

(Petitioner's Exhibit 1.)

kota in Mr. Cramer's behalf, had been filed as a lengthy document with the members of Selective Service Board No. 271, and such document still is a part of Mr. Cramer's official file. I was interested in Mr. Miller's status because it also refers to the fact that Mr. Cramer has "enemies" in South Dakota. Inasmuch as Mr. Miller's signed statement in the official file of Mr. Cramer was submitted in Mr. Cramer's behalf, I was interested in checking up some of the statements made therein.

Several months ago, following Mr. Miller's return from his investigation of Mr. Cramer's case in South Dakota and after he had filed with our board his written report thereon, I talked to him about the case. Mr. Miller is a cousin of mine and the conversation I had with him took place while we were having luncheon together. He did not attempt to prejudice me for or against Mr. Cramer; but he did explain that he had been well paid to make the trip to South Dakota in Mr. Cramer's behalf.

I would like to clear up and explain one more question which I asked Mr. Cramer during his hearing before our Board on October 12th. I made this statement after he had questioned the fairness of the members of the County War Board where his farms are located in South Dakota and had accused the chairman thereof of being prejudiced against him; and after Mr. Cramer had referred to the number of affidavits which he had filed with the board relative to his status by other citizens of South Dakota. I simply asked him if it wasn't a fact that these persons

(Petitioner's Exhibit 1.)

had a personal interest in his case because of business relations with him. He admitted that practically all the persons signing such affidavits did have business relations with him and countered with this remark: "Who else would be better qualified to know about me than people with whom I am doing business?"

In conclusion, because Mr. Cramer has persisted in accusing certain members of Selective Service Board No. 271 of being "prejudiced and unfair" in his case, I wish to state that so far as I am concerned, the members of this Board only followed official rules and regulations when they wrote to and considered the reply from the members of the County War Board, where Mr. Cramer's property is located, relative to his status as a bonafide farmer.

Jack Horner

Member Board 271

[Stamped on Face]:

Local Board No. 271 91

Los Angeles County 037

Oct 21, 1943 271

Woodrow Wilson High School

Long Beach, California

(Petitioner's Exhibit 1.)

SELECTIVE SERVICE SYSTEM

LOCAL BOARD No. 271

Los Angeles County

Woodrow Wilson High School

Long Beach, California

November 1, 1943

STATEMENT OF PERSONAL PRIVILEGE

To: Selective Service Board No. 271

From: Clarence E. Wagner, Member Selective Service
Board No. 271

This is to state that I have read Mr. Cramer's communication, which was filed October 18, 1943, and proposes to set forth the happenings at time of his personal hearing on October 12, 1943, and I desire to give answer to certain statements of Mr. Cramer's.

I refer specifically to Mr. Cramer's statement that Mr. Prisk called him a "God damned liar". This accusation is entirely false. Mr. Prisk did not use profanity. At the time Mr. Prisk challenged the veracity of Mr. Cramer's statement that he had said in the summer of 1942 that "I know what you are doing from your neighbors", he denied making such a statement. Thereupon Mr. Cramer insisted that he did. Then Mr. Prisk said: "If you say that I said so, you are a damned liar", thereby giving em-

(Petitioner's Exhibit 1.)

phasis to a repeated denial of having made such a statement.

I also wish to deny that at anytime during the interview with Mr. Cramer did I call him a "damned liar", or a "God damned liar".

Mr. Cramer refers to my questioning him about his whereabouts on certain days, namely December 7, 1941, and July 7, 1941. I did ask Mr. Cramer about his whereabouts on December 7, 1941, and where he was during the summer of 1941; the growing season of 1941. I also asked Mr. Cramer what were his particular activities during that growing season. Mr. Cramer refused to give an answer to either of my questions, stating he could not remember.

Mr. Cramer has surprising ability to remember certain incidents, as his communication discloses, and yet could not seemingly, remember anything that would provide the answer to inquiries pointedly asked him.

The purpose of my questioning was entirely pertinent to the discussion for the reason that Mr. Cramer's status as a farmer was being questioned, and an attempt was being made to bring out facts that would or would not qualify him as a farmer. Although an owner of a vast amount of farm land, and according to figures, the finest crops in many years in the state of South Dakota had been obtained in 1941, Mr. Cramer failed to remember where he was in

(Petitioner's Exhibit 1.)

1941, and had seen fit to let this year go by without exerting any effort or talent as a farmer.

My particular interest in the date factor hinges on the knowledge that during a large portion of the growing season of 1941, Mr. Cramer was classified as I-A-H.

In Mr. Cramer's summary of oral matters presented at personal appearance before Selective Service Board No. 271, he mentions that at no time was he asked a single question about his farms or what he was doing. Mr. Cramer's failure to answer questions regarding his whereabouts at certain times, caused the fact to become apparent that it was futile to try to determine his status as a farmer. Therefore, no more questions on this subject was asked by me. In closing I wish to add that I find Mr. Cramer's summary filled with inaccuracies, half truths, and falsehoods, and much innuendo. It is not at all a credible document.

Clarence E. Wagner
Member

[Endorsed]: 12/30/43.

At a stated term, to-wit: The September Term, A. D. 1943, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Friday the 31st day of December in the year of our Lord one thousand nine hundred and forty-three.

Present:

The Honorable Ralph E. Jenney, District Judge.

In the Matter of the Petition of

NELSON B. CRAMER

For Writ of Habeas Corpus.

No. 3319-RJ Civil.

This matter coming on for further hearing on Writ of Habeas Corpus; Philbrick McCoy, Esq., appearing as counsel for the petitioner, Nelson B. Cramer; James M. Carter, Esq., Assistant U. S. Attorney, appearing as counsel for the Government; and James J. Marquardt, Court Reporter, being present and reporting the proceedings:

Attorney McCoy requests permission to withdraw Petitioner's Exhibit No. 2 and, in lieu of admitting exhibit, to read portions of the said exhibit into the record, and it is so ordered.

The Court makes a statement. It is ordered that the said Writ be, and it is, quashed, and that proceedings herein be, and they hereby are, dismissed, and that the applicant be remanded to the authority and control of the military authorities.

[Title of District Court and Cause.]

JUDGE'S DECISION.

Los Angeles, California.

December 31, 1943.

Appearances:

For the Plaintiff: Charles H. Carr, United States Attorney, by James M. Carter, Assistant United States Attorney.

For the Defendant: Philbrick McCoy, 1015 Spring Arcade Building, Los Angeles, California.

Los Angeles, California, December 31, 1943. 11 o'clock A. M.

* * *

The Court: I have given this matter careful consideration and, as I indicated yesterday, have willingly given much more time to oral argument than is my custom, because the oral argument was interesting to me and I have felt that a case of this kind was of the utmost importance, involving the freedom of action of any man, and more important than cases possibly involving simply dollars. I have not had an opportunity to write any written opinion or any formal opinion, nor do I think that legal literature would be enriched by my so doing. I shall simply discuss this entire matter very informally and largely thinking out loud and possibly disconnectedly to meet the various points that have been raised.

I think it is quite important that we get our bearings. When the United States was attacked by the sneak attack on Pearl Harbor, unjustified and for many, many decades unknown to the civilized world except by the same nation,

it became necessary for the Congress to act promptly for the defense of the nation. The Congress, in the exercise of what I deem to be its constitutional power, set up what was known as a Selective Training and Service system. Under that system, feeling that the executive branch would be better able to carry out the intention of the Congress, the Congress directed or delegated to the Executive branch the power and responsibility of setting up a system to provide the necessary manpower. In each particular district was organized what is known as a local draft board. That draft board had primary responsibility for the carrying out of the provisions of the Act. That board consisted of men who were familiar with the neighborhood and who were men of responsibility and men whose integrity was what might be desired in the community. Appeal boards were set up and on these appeal boards were placed men, generally speaking, of wider experience. Quite frequently and, in fact, usually the appeal board contained some lawyer of recognized standing and, generally speaking, these appeal boards were there to safeguard the rights of the individual, to see that injustices were not done and that the local draft boards were not guilty of improprieties in their conduct. Generally speaking I think the plan has worked in an exemplary way. A Director of Selective Service was set up in each given territory who had certain general supervision, certain advisory powers and certain functions as provided by the Act.

Now, not every man could, under the law or under the regulations as they were promulgated, be arbitrarily classi-

fied, and I think we should take the time to discuss the law and regulations briefly. Section 5 (k) of the Act provides:

“Every registrant found by a selective service local board, subject to appeal in accordance with Section 10 (a) (2), to be necessary to and regularly engaged in an agricultural occupation or endeavor essential to the war effort, shall be deferred from training and service in the land and naval forces so long as he remains so engaged and until such time as a satisfactory replacement can be obtained: Provided,” and so forth.

Now you will note from that provision of the law that just because a man claims to be a farmer or because John Doe or Richard Roe or both of them might classify him as a farmer, does not exempt him from the Act. He may be classified so as to have him deferred in the event the local board finds him (1) necessary to and, conjunctive, (2) regularly engaged in an agricultural occupation or endeavor, and so forth. Now, Regulation 622.25 provides:

“(a) In Class II-C shall be placed any registrant who is found to be necessary to and regularly engaged in an agricultural occupation or an agricultural endeavor essential to the war effort.

“(b) A registrant placed in Class II-C shall be retained in that class so long as he is necessary to and regularly engaged in an agricultural occupation or an agricultural endeavor essential to the war effort and until a satisfactory replacement in such agricultural occupation or agricultural endeavor can be obtained.”

Sections (c) and (d) I need not read.

Section 621.7 provides:

“(a) The local board is authorized to request and receive information from local welfare and governmental agencies where such information will assist it in determining the proper classification of a registrant.

“(b) The local board is authorized to request the State Director of Selective Service to secure information from State or national welfare and governmental agencies where such information will assist it in determining the proper classification of a registrant.”

which indicates that the boards are not held to the strict rules of evidence which are sometimes required to be followed in courts of law.

An appeal is, of course, provided for to the appeal board, and Section 627.12 provides:

“The person appealing may attach to his notice of appeal or to the Selective Service Questionnaire (Form 40) a statement specifying the respects in which he believes the local board erred, may direct attention to any information in the registrant's file which he believes the local board has failed to consider or give sufficient weight, and may set out in full any information which was offered to the local board and which the local board failed or refused to include in the registrant's file.”

In Subdivision 627.13 appears the following:

“If any facts considered by the local board do not appear in the written information in the file, the local board shall prepare and place in the file a written summary of such facts. In preparing such a sum-

mary the local board should be careful to avoid the expression of any opinion concerning information in the registrant's file and should refrain from including any argument in support of its decision."

Section 627.24 provides:

"(a) The board of appeal shall consider appeals in the order in which they are received.

(b) In reviewing the appeal, no information shall be considered which is not contained in the record received from the local board and the decision of the board of appeals shall be based solely thereon."

Section 627.26:

"(a) The board of appeal shall classify the registrant, giving consideration to each class in the order in which the local board gives consideration thereto when it classifies a registrant."

providing that the board of appeals shall not give consideration to Class IV-F because of physical or mental disability. It provides in

(c) "If the board of appeal deems it to be in the national interests and necessary to avoid undue interruption, may recommend to the State Director of Selective Service a postponement of induction."

In Section 627.51 there are certain provisions with regard to special appeal in agricultural cases, and it says 627.61:

"When either the Director of Selective Service or the State Director of Selective Service deems it to be in the national interest or necessary to avoid an in-

justice, he may, at any time, request a board of appeal to reconsider any determination made by it, stating his reasons for requesting such reconsideration. Upon receiving such a request, a board of appeal will reconsider its determination in any case.

(b) At any time within ten days after the date when the local board mails to the registrant either a Notice of Continuance of Classification (Form 58) or a Notice of Classification (Form 57),” and so forth,

or at any time before the Order of Induction is sent,

“may prepare and place in the registrant’s file a recommendation that the State Director of Selective Service either request the Board of Appeal to reconsider its determination or appeal to the President.” and so forth.

Section 641.5 says:

“The Classification Record (Form 100) shall be open to the public at the local board office. It shall be the duty of each registrant to keep himself informed of his status, and any entry concerning him on the Classification Record (Form 100) shall constitute due legal notice thereof to him and to all other interested persons.”

For the present I just desire to call attention to those particular sections.

Now it has been my view, and I still adhere to that view, that when a registrant has perfected an appeal to the appeal board or caused the same to be perfected for him, that the only thing before me for consideration on

the habeas corpus proceeding would ordinarily be the action of the appeal board, that having superseded the action of the local draft board. In this case, in order that the question may be decided without undue delay and in order that the record may be entirely before the Circuit Court of Appeals or the Supreme Court, in the event that those bodies are called upon to pass upon the question, I have permitted the record to go in and have given it very careful consideration on its merits, and the record is here so that he who wants may read, and the case may not be sent back for further trial, in all probability, on that ground.

Now, you will note here that the regulations contemplate and provide for several safeguards for the interests of the individual registrant: First, the hearing before the local draft board; second, the appeal; third, the interest, advice and functions of the Selective Service Director; fourth, the appeal to the President under the conditions indicated in the Act; and, fifth, not attempting to be exclusive in my categories, the right of the military authorities to make an investigation after the man has been inducted in order to satisfy themselves as to what has taken place. Now in this case the registrant's position has been the subject of a very considerable amount of consideration, apparently, by the local draft board, by the Director of Selective Service, and by the appeal board. It is true that the law provides for a summary to be sent by the local draft board to the appeal board of those facts which are not contained specifically in the written record. In this case the registrant made the summary himself. Of course the law doesn't contemplate that the draft board shall do an unnecessary act, and three of the members of

the draft board wrote what they called privileged communications, which denied, in part, some of the facts set forth in the summary. The contention of counsel for the registrant is that the registrant had a right to have the file sent to the appeal board in the condition in which it was at the time that the summary was filed by the registrant, and he relies, to some extent, in that upon this case of *U. S. vs. Cole*, in the District Court of Delaware. The findings of the Court there I believe to be *obiter dicta*. I am not sure that I agree with the decision even under the circumstances indicated in the opinion, but, even so, I do not feel that it is applicable here. It seems to me that the applicant should have known that when he made such serious charges as he did in what he described as his summary, that some, at least, of the members of the board would not take it lying down, and that they would feel that they should at least file a formal denial. That is a part and parcel, as I consider it, of the summary which the law contemplated.

Now we must look through form to substance in all of these things. Naturally these lay boards—the local draft boards, and sometimes the lay members of the appeal boards—are not technical lawyers. They are not required to respond to precedents and the rules of evidence as do the formal courts. Seldom do administrative bodies consider themselves bound by those technical requirements which are recognized in formal courts of law. Taking it by and large I think that the summary prepared by the registrant and the statements of the three members of the board may, together, fairly be considered to be the summary which the law contemplated.

Now the local draft board is presumed, under the law, to have given the registrant a fair hearing; a fair and impartial hearing, we may say. When one charges a board with being arbitrary and capricious, that is, of course, a serious charge against public officials. If true they are not qualified to act, certainly in the particular case. If untrue it is a serious charge, and it must be proved in a reasonable manner. Here the registrant was not arbitrarily denied a hearing. As a matter of fact he was given, apparently, every opportunity to make his case or given every reasonable opportunity to make his case. The draft board evidently were very conscientious in their investigation of the matter. They tried to follow that which has subsequently become common practice, to secure information from the community in which the registrant lived. Now I believe the tendency under the regulations is to send these extra-territorial registrants or these registrants out of their normal territory back to the place where they lived, so that their neighbors may pass upon their qualifications. It is perfectly apparent from the wording of the Act that we are not bound by strict rules of evidence because certainly information coming to the board from these sources is what we generally term, in legal parlance, hearsay evidence.

As I indicated to you in reading the Act, the appeal board considers matters *de novo* under the Act, takes everything that has been produced, including that evidence which the local draft board has rejected, and gives it careful consideration. The appeal board is generally an intelligent board of experience. This type of body knows the difference between argument, conclusions and facts. The contention is made that certain letters sent

up to them by the local board were prejudicial. I don't think they would be considered prejudicial in a court such as this, and I don't believe that the appeal board would be prejudiced by them. I think the appeal board would very quickly separate the wheat from the chaff and would take out of it what they properly might, without being too technical.

You must understand that it is not a legal right for a man who considers himself to be a farmer to be exempted or to be deferred from the draft. The law does not so provide. The law provides what the draft board shall do in arriving at a classification. I think, as indicated by counsel for the Government, that the draft board is entitled to consider and manifestly does consider the bona fides of the contention that under the provisions of the law the registrant is necessary to and regularly engaged in an agricultural occupation. Now these boards are sometimes called upon to consider what the man did before war broke out, what his training has been, whether he looks like an urban dweller or looks like a man who is engaged in and has been engaged for some time, in farming occupations. They would naturally be interested in that in determining whether the registrant is really a slacker and is simply using the claim or making a claim to being a farmer in order to avoid being inducted into the military or naval services. They have a right to consider and undoubtedly do consider under certain circumstances the reason why a man has his classification made outside of his normal habitat, whether he was pretty sure that his neighbors wouldn't classify him as a farmer—because they would feel that he wasn't under the Act to be deferred—and why, therefore, he felt

that it was advantageous to him to go many thousands of miles or many hundreds of miles away for his classification. They would possibly take into consideration the fact that in his first classification he claimed to be a conscientious objector. Whether he actually intended to do that is beside the point. They would have before them the record in determining whether there was bona fides about this present contention. They would possibly take into consideration in any applicant the conflicting or irreconcilable claims made by the registrant as to his past or present activities, as to just why he was necessary to or essential to the war effort in the production of food. They might possibly take into consideration as to whether, in the farming of the type in which he was engaged, it was necessary to have a gentleman overseer or someone who didn't actually get his hands calloused by work, whether or not the man did actually do work, whether he was required to help in the production of food, etc. They have certain quotas that are necessary to be raised, and while the regulations provide that that shall not influence their judgment, they have to take into consideration, in determining who are necessary for what, the requirement for manpower in the various categories; and I presume that that is only natural.

I am only raising these points, not to show that they are pertinent here or that I have arrived at any conclusion on any of them, but to show that it is not just simply a question, "Are you a farmer?" "Yes." "Good-bye." There is a lot more to it than that.

Now I have shown you that under the law, under the regulations the Director of Selective Service has a pretty

broad function, and he and the local board and the appeal board are so tied together in carrying out the requirements of the Act that sometimes they are working consecutively, sometimes they are working concurrently, and sometimes they are working entirely separate as to time and as to function; but, in any event, they are all working toward the same objective, and I do not feel that the objections are sound as to orders from the Director of Selective Service. He has certain rights and privileges in connection with the appeal board, and whether he operates through the local board and thence to the appeal board, just how those records are obtained doesn't make so much difference so long as they are given consideration.

Now the presumption is that each one of these boards acted in accordance with law and the regulations. Because the chairman of the draft board writes a letter in which he says that he feels that from the information obtained from the War Board back in South Dakota that he has to vote for a certain classification a certain way or classify a certain way doesn't indicate that that was the attitude of the entire board. Each one of them is presumed to do his duty. And he may have stated the matter in a little broader form than he really intended, and I think that there is nothing there that makes invalid the act of the board. Nor by the pointing out of one item are we to conclude that all of the rest of the evidence was discarded. We must understand that this board did have a good deal of other evidence before it, and it doesn't seem to me that it is my function to say to the draft board or to the appeal board, "If I had surveyed the evidence I would have arrived at a different conclusion."

This case is properly here on an application for a writ of habeas corpus, the man having submitted himself to the jurisdiction of the army officers. It is immaterial what I think the law should be, it is immaterial what I would have decided on a given state of facts. The point here is the contention that both the appeal board and the local draft board acted in an arbitrary and capricious manner. I cannot find that they did.

There is a good deal of discussion of the letter from De Velder and claiming that erroneous deductions were made from that letter by the draft board. The appeal board had all of those matters before it and if it is possible that the local board arrived at an erroneous deduction, then the appeal board certainly would have corrected that erroneous deduction. They are trained men. I think the same thing is true with regard to that communication as is true with regard to the summary and the three letters which were, as I consider it, a part and parcel of the same matter.

It is the duty of that administrative body or those administrative bodies to determine, as was suggested, whether or not there is a dual occupation and whether or not under the law the man comes within the provisions of the law as I have read it to you.

Even though it is conceivable that a member of a local draft board might have predicated his decision upon an erroneous deduction, that erroneous deduction has not been shown to have been made, nor is it presumed to have been made by the appeal board.

The writ will be quashed, the proceedings dismissed, and the applicant remanded to the authority and control of the military authorities.

[Endorsed]: Filed Apr. 26, 1944.

In the District Court of the United States in and for
the Southern District of California
Central Division.

No. 3319-RJ

In the Matter of the Petition of

NELSON B. CRAMER

For Writ of Habeas Corpus

ORDER AND JUDGMENT DISCHARGING WRIT
AND DISMISSING PETITION AND RE-
MANDING PETITIONER TO CUSTODY.

The respondent having produced Nelson B. Cramer before this Court in obedience to the Writ of Habeas Corpus herein, and having made his Writ whereby it appears that said Nelson B. Cramer is a member of the Armed Forces of the United States; and said Nelson B. Cramer having appeared with his attorney, Philbrick McCoy, in behalf of said Writ, and Charles H. Carr, United States Attorney for the Southern District of California, and James M. Carter, Assistant United States Attorney for said District, appearing for respondent in opposition to said Writ; and the Court having heard the petition and inquired into the facts; and evidence having been offered and received, and the case having been argued by counsel; and the Court having on December 31, 1943, rendered its decision in the matter, and having ordered the Writ discharged the petition dismissed, and

the petitioner, Nelson B. Cramer, remanded; it is hereby finally

Ordered, Adjudged and Decreed that said Writ of Habeas Corpus be, and the same is hereby, discharged, and the petition dismissed on the merits, and the said petitioner, Nelson B. Cramer, be, and he is hereby, remanded to the custody of the United States Army.

Dated: March 29, 1944.

RALPH E. JENNEY

United States District Judge.

Presented by:

James M. Carter

JAMES M. CARTER

Assistant U. S. Attorney

Approved as to form:

Philbrick McCoy

PHILBRICK McCOY

3/24/42.

Judgment entered Mar. 29, 1944. Docketed Mar. 29, 1944 Book 24, page 342. Edmund L. Smith, clerk; by P. D. Hooser, deputy.

[Endorsed]: Filed Mar. 29, 1944.

[Title of District Court and Cause.]

NOTICE OF APPEAL.

To Col. Jesse G. France, Respondent and Appellee, and Charles H. Carr, United States Attorney, and James M. Carter, Assistant United States Attorney, his attorneys:

You and each of you will please take notice that the Petitioner hereby appeals to the Circuit Court of Appeals for the Ninth Circuit from the judgment made and entered in the above-entitled proceedings on March 29, 1944, discharging the Writ of Habeas Corpus theretofore issued therein and dismissing said proceedings on the merits and from the whole thereof.

Dated: March 30, 1944.

Philbrick McCoy

Attorney for Petitioner and Appellant

[Endorsed]: Filed & Mailed Copy to Charles H. Carr, Atty for Respdt., Col. Jesse G. France Apr. 3, 1944.

[Title of District Court and Cause.]

COSTS ON APPEAL.

Whereas, Nelson B. Cramer has heretofore applied for a Writ of Habeas Corpus, which said Writ was issued by the above entitled Court and upon the return thereof, said Nelson B. Cramer being present and represented by counsel and the said application having been heard and considered and the Court having thereafter on the 29th day of March, 1944, rendered its judgment quashing said writ and dismissing said proceedings on their merits, and

Whereas, said Nelson B. Cramer desires to take an appeal from said judgment to the United States Circuit Court of Appeals for the Ninth Circuit and is required to furnish an undertaking in the amount and conditioned as hereinafter set forth.

Now, Therefore, in consideration of the premises and the taking of said appeal, the undersigned Fidelity and Deposit Company of Maryland, a corporation, organized and existing under the laws of the State of Maryland, and duly licensed to transact business in the State of California, has hereby acknowledged itself bound in the sum of Two hundred and fifty and no/100 (\$250.00) Dollars, to the effect that said Appellant, Nelson B. Cramer, shall answer all costs which may be adjudged against him if the appeal is dismissed, or the judgment affirmed, or such costs as the Appellate Court may award if the judgment is modified, then this obligation shall be void; otherwise to remain in full force and effect.

It Is Hereby Agreed by the Surety that in case of default or contumacy on the part of the Principal or Surety, the Court may, upon notice to them of not less than ten days, proceed summarily and render judgment against them, or either of them, in accordance with their obligation and award execution thereon.

Signed, sealed and dated this 3rd day of April, 1944.
FIDELITY AND DEPOSIT COMPANY OF MARY-
LAND

By ROBERT HECHT

Robert Hecht

Attorney in Fact

Attest

(Seal)

THERESA FITZGIBBONS

Theresa Fitzgibbons

Agent

State of California,)
County of Los Angeles) ss:

On this 3rd day of April, 1944, before me, S. M. Smith, a Notary Public, in and for the said County of Los Angeles, State of California, residing therein, duly commissioned and sworn, personally appeared Robert Hecht known to me to be the Attorney-in-Fact, and Theresa Fitzgibbons known to me to be the Agent of the Fidelity and Deposit Company of Maryland, the Corporation that executed the within instrument, and acknowledged to me that they subscribed the name of the Fidelity and Deposit

Company of Maryland thereto and their own names as Attorney-in-Fact and Agent, respectively.

S. M. SMITH,

Notary Public in and for the County of Los Angeles,
State of California.

My commission expires February 18, 1946.

Examined and recommended for approval as provided in Rule 8.

PHILBRICK McCOY

Attorney

I hereby approve the foregoing.

Dated this 3 day of April, 1944.

EDMUND L. SMITH,

Clerk, U. S. District Court, Southern District of California,

By John A. Childress,

John A. Childress,

Deputy.

The premium charged for this bond is \$10.00 Dollars per annum. 4693094.

[Endorsed]: Filed Apr. 3, 1944.

[Title of District Court and Cause.]

STATEMENT OF POINTS ON WHICH APPELLANT WILL RELY ON APPEAL.

Pursuant to Rule 75 (d) of the Federal Rules of Civil Procedure, Appellant states that he intends to rely on the following points on his appeal in the above-entitled proceeding:

I.

The District Court erred in quashing the Writ of Habeas Corpus and dismissing the proceedings for the following reasons:

1. The order of induction is void and illegal in that it was made in violation of section 5, subdivision (k), Selective Service and Training Act (added Nov. 13, 1942, U. S. C. A., Tit. War, Appdx. sec. 305).

2. The reclassification of petitioner in Class I-A instead of in Class II-C and said order of induction are not founded on and not supported by any substantial and competent evidence.

3. The reclassification of petitioner in Class I-A instead of in Class II-C and the order of induction were made and issued by said Local Board as the result of an arbitrary, unfair, and capricious enforcement and administration of said Act, in that: (a) there is no substantial and competent evidence before the Board to support said reclassification and order; (b) said reclassification and order were made in disregard of all the evidence submitted

by petitioner to said Board in support of his application to be again classified in Class II-C; (c) petitioner was not accorded a full and fair hearing before said Board; (d) said reclassification in Class I-A was based in part upon matters appearing in the record which petitioner was not given an opportunity to rebut; and (e) said reclassification and order for induction were approved by Col. Kenneth H. Leitch, State Director of Selective Service, acting in an arbitrary, unfair, and capricious manner in the enforcement and administration of said Act.

4. In reclassifying petitioner in Class I-A instead of in Class II-C, and in issuing said order of induction, said Local Board abused its discretion and exceeded its authority in the particulars immediately hereinabove set forth in subparagraph 3 of this paragraph.

5. By said classification in Class I-A instead of in Class II-C, and by said order of induction, petitioner has been and is denied due process of law as guaranteed him by the 5th Amendment of the Constitution.

II.

The District Court, in its oral decision, erred in holding that when a registrant under the Selective Service and Training Act of 1940, as amended, has perfected an appeal to the appeal board, the only thing before the Court for consideration on the habeas corpus proceeding is the action of the appeal board, that action having superseded the action of the local selective service board.

III.

The District Court, in its oral decision, erred in holding that the local selective service board fully complied with section 627.13 of the Selective Service Regulations, requiring such Board to prepare and place in the file of the registrant a written summary of all facts considered by the local board which do not appear in the written information in the file.

IV.

The District Court, in its oral decision, erred in holding that, in proceedings to reclassify a registrant already classified in Class II-C, the local selective service board or the appeal board may reconsider matters of evidence or other matters of record already considered in so classifying the registrant.

V.

The District Court, in its oral decision, erred in holding that, in reclassifying a registrant, the local selective service board, have to take into consideration the requirements for manpower in various categories.

PHILBRICK McCOY

Attorney for Petitioner and Appellant.

[Endorsed]: Filed Apr. 3, 1944.

[Title of District Court and Cause.]

STIPULATION AND ORDER TO SEND ORIGINAL
PAPERS TO CIRCUIT COURT OF APPEALS
IN LIEU OF COPIES.

It Is Stipulated between the parties to the above-entitled proceeding, by their respective counsel of record that, pursuant to the provisions of Rule 75, paragraph (i), of the Federal Rules of Civil Procedure, that the original papers comprising Petitioner's Exhibit 1, being the record of Local Selective Service Board, Board No. 271, Long Beach, California, shall be sent by the Clerk of this Court, by such means of transportation as he shall select, to the United States Circuit Court of Appeals for the Ninth Circuit in lieu of copies of said original papers, to be safely kept by the Clerk of said Circuit Court of Appeals until the final determination of the appeal from the judgment in said proceeding, at which time said original papers shall be returned to the Clerk of this Court.

PHILBRICK McCOY,

Philbrick McCoy,

Attorney for Petitioner and Appellant,

CHARLES H. CARR,

United States Attorney,

JAMES M. CARTER,

Assistant United States Attorney,

By: JAMES M. CARTER,

Attorneys for Appellee.

It Is So Ordered.

April 26, 1944.

Ralph E. Jenney,

RALPH E. JENNEY,

United States District Judge.

[Endorsed]: Filed Apr. 26, 1944.

[Title of District Court and Cause.]

STIPULATION AS TO RECORD ON APPEAL.

It Is Hereby Stipulated by Appellant and Appellee, by their respective attorneys of record, pursuant to Rule 75 (f) of the Federal Rules of Civil Procedure, that the following portions of the record, proceedings and evidence be included in the record on appeal:

1. Amended petition for Writ of Habeas Corpus filed December 16, 1943, including the order for the induction of Petitioner into the Army of the United States and the report dated 22 November, 1943, to members of Local Selective Service Board No. 271, Long Beach, California, signed by Hon. M. Q. Sharpe, Governor of South Dakota, with the documents attached thereto, but excluding the other exhibits attached to said petition.

2. Minute Order made by Hon. Paul J. McCormick on December 16, 1943.

3. Writ of Habeas Corpus, issued December 16, 1943.

4. Return to Writ of Habeas Corpus filed December 23, 1943.

5. Stipulation as to traverse to return filed December 29, 1943.

6. Transcript of oral decision by Court, December 31, 1943.

7. Minute Order of December 31, 1943.

8. Judgment of the Court entered March 29, 1944.

9. Petitioner's Exhibit 1, consisting of the file of Local Selective Board No. 271, Long Beach, California.

10. The notice of appeal.

11. This stipulation as to the record on appeal.

12. Appellant's statements of the points on which he intends to rely.

It Is Further Stipulated that the original papers comprising Petitioner's Exhibit 1 may be sent to the Circuit Court of Appeals in lieu of copies, upon the District Court's making such order therefor and for the safekeeping, transportation, and return thereof as it deems proper.

Dated: March 31, 1944.

Philbrick McCoy,

PHILBICK McCOY,

Attorney for Petitioner and Appellant,

CHARLES H. CARR,

United States Attorney,

JAMES M. CARTER,

Assistant United States Attorney,

By: JAMES M. CARTER,

Attorneys for Appellee.

[Endorsed]: Filed Apr. 13, 1944.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK.

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 59 inclusive contain full, true and correct copies of: Amended Petition for Writ of Habeas Corpus including the order for the induction of petitioner into the Army of the United States and the report dated November 22, 1943 to members of Local Selective Service Board No. 271, Long Beach, California, signed by Hon. M. Q. Sharpe, Governor of South Dakota, with the documents attached thereto, but excluding the other exhibits attached to said petition; Minute Order entered December 16, 1943; Writ of Habeas Corpus; Return to Writ of Habeas Corpus; Stipulation as to Traverse to Return; Minute Order entered December 31, 1943; Order and Judgment Discharging Writ and Dismissing Petition and Remanding Petitioner to Custody; Notice of Appeal; Bond for Costs on Appeal; Statement of Points on Which Appellant Will Rely on Appeal; Stipulation and Order to Send Original Papers to Circuit Court of Appeals in Lieu of Copies and Stipulation as to Record on Appeal, which, together with Reporter's Transcript of Decision of Court and the Original of Petitioner's Exhibit 1, transmitted herewith, constitute the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing, comparing, correcting and certifying the foregoing record amount to \$16.35 which sum has been paid to me by appellant.

Witness my hand and the seal of said District Court this 5 day of May, 1944.

(Seal)

EDMUND L. SMITH,
Clerk,

By THEODORE HOCKE,
Deputy Clerk.

[Endorsed]: No. 10765. United States Circuit Court of Appeals for the Ninth Circuit. Nelson B. Cramer, Appellant, vs. Col. Jesse G. France, Commanding Officer, Reception Center, Fort MacArthur, California, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Southern District of California, Central Division.

Filed May 8, 1944.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

In the Circuit Court of Appeals of the United States
in and for the Ninth Circuit.

No. 10765

In the Matter of the Petition of

NELSON B. CRAMER

For Writ of Habeas Corpus

NELSON B. CRAMER,

Appellant,

vs.

JESSE G. FRANCE,

Respondent.

Pursuant to Rule 19, subd. 6, of the Rules of the above-entitled Court, appellant states that on this appeal he intends to rely on the points stated in his "Statement of Points on Which Appellant Will Rely" filed with the United States District Court for the Southern District of California, which Statement is incorporated herein by this reference.

Dated: May 3, 1944.

Philbrick McCoy,

PHILBRICK McCOY,

Attorney for Appellant.

[Endorsed]: Filed May 8, 1944. Paul P. O'Brien,
Clerk.

